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Llywodraeth Cymru
Welsh Government

Welsh Government
Consultation Document

**Consultation on Technical Amendments to Council Tax
Legislation to Reflect the Introduction of Council Tax Premiums
on Long-Term Empty Homes and Second Homes**

Date of issue: 6 October 2016

Action required: Responses by 1 December 2016

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

Overview	This is a consultation on technical amendments to existing council tax legislation to reflect the introduction of the council tax premiums on long-term empty homes and second homes from 1 April 2017.
How to respond	<p>Responses can be emailed or sent direct to:</p> <p>Local Government Finance Policy Welsh Government Cathays Park Cardiff CF10 3NQ e-mail: LGF1Consultations@wales.gsi.gov.uk</p>
Further information and related documents	<p>Large print, Braille and alternative language versions of this document are available on request.</p> <p>Insert any references to the internet, documents or information which might be useful to consultees e.g. consultation web address, detailed appendix to consultation</p>
Contact details	<p>For further information, or queries regarding this consultation, please email</p> <p>LGF1Consultations@wales.gsi.gov.uk Local Government Finance Policy Welsh Government Cathays Park Cardiff CF10 3NQ</p>
Data protection	<p>How the views and information you give us will be used</p> <p>Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about. It may also be seen by other Welsh Government staff to help them plan future consultations.</p> <p>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. This helps to show that the consultation was carried out properly. If you do not want your name</p>

or address published, please tell us this in writing when you send your response. We will then blank them out.

Names or addresses we blank out might still get published later, though we do not think this would happen very often. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 allow the public to ask to see information held by many public bodies, including the Welsh Government. This includes information which has not been published. However, the law also allows us to withhold information in some circumstances. If anyone asks to see information we have withheld, we will have to decide whether to release it or not. If someone has asked for their name and address not to be published, that is an important fact we would take into account. However, there might sometimes be important reasons why we would have to reveal someone's name and address, even though they have asked for them not to be published. We would get in touch with the person and ask their views before we finally decided to reveal the information.

Introduction

The Housing Act (Wales) 2014 gives local authorities discretionary powers to charge a council tax premium on long-term empty homes and second homes in their areas from 1 April 2017. From this date, local authorities will be able to charge liable properties up to 100% of the standard rate of council tax.

To enable local authorities to effectively administer the council tax premiums, a number of consequential and technical amendments are being made to existing council tax legislation, for example the regulations which relate to billing. The purpose of this consultation is to seek views on the amendments being made.

Accompanying the consultation are draft regulations:

- The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2016;
- The Council Tax (Demand Notices) (Wales) (Amendment) Regulations 2016; and
- The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2016.

The views being sought relate only to the amendments being made to take account of the implementation of the council tax premiums from 1 April 2017.

The consultation is aimed primarily at local authorities and is open for an eight-week period from 6 October to 1 December 2016.

The Council Tax (Administration and Enforcement) (Wales) Regulations 1992 (“the 1992 Regulations”)

Background

The 1992 Regulations make provision about the billing, enforcement and collection of council tax. Among other matters, the 1992 Regulations require billing authorities to take steps to ascertain whether dwellings in their area are liable for council tax or are exempt from it and enable billing authorities to obtain information to identify the person liable to pay council tax in respect of a particular dwelling.

Having taken reasonable steps to ascertain certain information about a dwelling, billing authorities must notify tax payers of any assumptions they have made in calculating council tax liability. Persons who have received such notification are under a duty to inform the billing authority if they have reason to believe that the status of their dwelling has changed.

Proposal

The draft Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2016 amend regulations 14, 15, 16 of, and Schedule 1 to, the 1992 Regulations.

The proposed amendments require billing authorities, before calculating council tax liability, to take reasonable steps to ascertain whether the amount is subject to a premium and if so, the amount of the premium. A local authority is then able to make assumptions based on the reasonable steps it has taken.

Where a person has been informed by a local authority that an assumption has been made that a council tax premium applies, the amendments require them to correct an assumption that is incorrect. A council tax payer must notify the billing authority within 21 days if he or she believes that the chargeable amount:

- is not subject to any premium; or
- is subject to a premium of a smaller or larger amount.

Schedule 1 to the 1992 Regulations makes provision about the payment of council tax by instalments. Amendments are proposed to Schedule 1 setting out the circumstances in which a local authority must adjust the instalments payable when a demand notice has been served on the basis that a premium does, or does not, apply.

Q1. Do you agree that the proposed amendments to the 1992 regulations will allow for the effective administration of the council tax premiums?

The Council Tax (Demand Notices) (Wales) Regulations 1993 (“the 1993 Regulations”)

Background

The 1993 Regulations prescribe the content of council tax demand notices issued by billing authorities and the information that must be supplied with them. The information enables council tax payers to understand the basis on which their bill has been calculated.

A council tax demand notice must, among other matters, identify the dwelling to which it relates; specify the valuation band and explain, by reference to any discounts and reductions assumed to be applicable, how the council tax bill has been calculated.

Schedule 1 sets out the information that an authority must include in a demand notice and Schedule 2 sets out the general information that must be supplied with a demand notice.

Proposal

The draft Council Tax (Demand Notices) (Wales) (Amendment) Regulations 2016 amend the 1993 regulations to reflect the introduction of the council tax premiums.

Amendments are proposed to Schedule 1 to require demand notices to include a statement of the number of days (if any) it has been assumed that a premium applies. Where a premium applies, a demand notice must also state the amount of the premium and the reason for it, as well as detailing the requirement for the recipient to notify the local authority of certain information and the possible consequences of failing to comply with that duty.

Amendments are also proposed to Schedule 2 requiring local authorities to provide explanatory information about the council tax premiums with the council tax demand notices. This information includes whether the local authority is charging a premium for the relevant year and, if so, the amount of the premium, a general indication of the circumstances in which a premium applies and a general indication of the circumstances in which a dwelling is exempt from the premium.

Q2. Do you agree that the proposed amendments to the 1993 regulations will allow for the effective administration of the council tax premiums?

The Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 (“the 1998 Regulations”)

Background

The 1998 Regulations prescribe two classes of dwelling in relation to which a local authority may reduce or remove a council tax discount.

Class A comprises every dwelling in Wales which is:

- not the sole or main residence of an individual;
- is furnished; and
- the occupation of which is prohibited by law for a continuous period of at least 28 days in the relevant year.

Class B comprises every dwelling in Wales which is:

- not the sole or main residence of an individual;
- is furnished; and
- the occupation of which is *not* prohibited by law for a continuous period of at least 28 days in the relevant year.

Proposal

The draft Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2016 amend the 1998 Regulations to ensure consistency with the terminology used in the Housing (Wales) Act 2014.

These Regulations make minor amendments to the classes prescribed by regulation 4 (Class A) and regulation 5 (Class B), adjusting the wording to clarify that these classes comprise dwellings of which there is no resident and that are substantially furnished.

Amending the definition from ‘furnished’ to ‘substantially furnished’ is not a material change in the scope of the definition used in the 1998 Regulations, it simply clarifies the existing position and provides consistency with the definition of a second home used in the Housing (Wales) Act 2014.

Similarly, minor amendments are made adjusting the definition of a second home from “not the sole or main residence” to “no resident” to reflect the terminology used in the Housing Wales Act 2014. The Local Government Finance Act 1992 (“the 1992 Act”) uses the phrase “no resident” because a ‘resident’ is defined in section 6 of the 1992 Act as a person who has their sole or main home in the dwelling. There is no need therefore to use the phrase “sole or main residence” as the concept of residence is already defined.

Q3. Do you have any views on the amendments made to The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2016?

Consultation questions

The Welsh Government is interested in comments you may have in relation to the proposed amendments to these sets of regulations.

In amending these regulations, we have given consideration to whether they should be remade rather than amended. The Welsh Government is of the view that due to their length and complexity, and to ensure local authorities can meet statutory timescales, it is not possible to make the regulations in their entirety at this stage. However, these amending sets of regulations will be made bilingually.

We invite comments about the effects (whether positive or adverse) the amendments would have on opportunities for persons to use the Welsh language and on treating the Welsh language no less favourably than the English language. In addition, we invite comments on whether the amendments could be formulated or revised to have positive effects, or decreased adverse effects, on opportunities for persons to use the Welsh language and treating the Welsh language no less favourably than the English language.

In addition to these comments, three specific questions are posed in the consultation document.

Next Steps

Following the close of the consultation, the responses will be analysed and any necessary amendments will be made to the draft regulations. It is intended that the amending regulations will be laid before the National Assembly for Wales in the autumn so that they can come into effect before local authorities commence their annual billing processes.

The Welsh Government will also be providing guidance to assist with the administration and enforcement of the premiums.