



Llywodraeth Cymru
Welsh Government

OPEN CONSULTATION

Consultation on the draft Valuation for Rating (Wales) (Coronavirus) Regulations 2021

We are seeking views on draft regulations designed to prevent non-domestic rating appeals. The regulations apply to appeals citing certain COVID-19 trading conditions and restrictions.

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Introduction

Non-domestic rates are levied on most non-domestic properties. Liability is calculated by multiplying the rateable value, independently determined by the Valuation Office Agency (VOA), by the annual multiplier which is set on an annual basis by the Welsh Government.

Where a ratepayer considers their liability to be too high, they are able to challenge their rateable value with the VOA. The appeals process is intended to provide a check on the robustness of the VOA's valuation methodology, ensuring that property characteristics throughout the tax-base are valued on a consistent basis. As part of the process, the VOA assesses the evidence provided and makes a determination as to whether an adjustment to the rateable value should

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occur. If a ratepayer remains unhappy following the determination, they may take their appeal to the Valuation Tribunal for Wales (VTW) where the case will be reviewed.

One method of appeal is to challenge that a property has been affected by a Material Change of Circumstances (MCC). Historically MCC appeals have been linked to one-off events, such as damage from flooding, rather than changes in market conditions.

During the COVID-19 pandemic, there has been a substantial rise in the number of appeals, with the majority citing COVID-19 trading conditions and restrictions as MCC. These appeals have come at a time when an unprecedented level of financial support has been provided to businesses, through rates relief schemes and targeted grant support. The Welsh Government has sought to provide support to those most acutely affected at the various stages of the pandemic.

This consultation seeks views on draft regulations, Annex A, that set out measures preventing further appeals being lodged as MCC related to COVID-19. The consultation is technical in nature and is seeking views on aspects of the wording of legislation.

This consultation applies to Wales only.

The Government's response to appeals relating to COVID-19

The large number of appeals prompted by the pandemic presents a significant risk to the Welsh Government's Budget as well as an operational pressure on the VOA and VTW.

In England, the UK Government has legislated to address this point. In March, the UK Government introduced **regulations**, similar to those which this consultation covers, to prevent further appeals being made on an MCC COVID-19 related basis. In parallel, the UK Government is pursuing measures through the **Rating (Coronavirus) and Directors Disqualification (Dissolved**

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Companies) Bill (the Bill) which is progressing through Parliament. The Bill would have the effect of discounting any COVID-19 related MCC appeals lodged since the start of the pandemic.

The draft regulations are consistent with regulations already in place in England and the Welsh Government is also seeking provisions for Wales to be included in the Bill. The alignment of Welsh Government and UK Government policy on this matter provides clarity for ratepayers and consistency for the VOA and VTW in carrying out their roles. It is intended that the draft regulations, if made, would be revoked before the provisions in the Bill commence.

On 7 July, the Welsh Government issued a **written statement** setting out its position concerning the increase in appeals lodged as an MCC due to COVID-19.

The Welsh Government is of the view that these appeals reflect changes in economic market conditions, rather than as a consequence of a specific event. On this basis, the policy position is that MCC appeals citing COVID-19 related matters should be discounted, as factors affecting wider market conditions are taken into account in the periodic statutory revaluations.

Structure of the legislation

The draft regulations set out in Annex A, specify the assumptions that are to be made when applying the provisions of sub-paragraphs (1) to (7) of paragraph 2 of Schedule 6 to the Local Government Finance Act 1988 (“the 1988 Act”).

The draft regulations provide that for the purpose of determining the rateable value of a hereditament, in applying the provisions of paragraphs (1) to (7) of the 1988 Act, it must be assumed that on that day, the following had not occurred:

- either or both of the Welsh Government response and the UK Government response to coronavirus
- any requirement of, or advice or guidance from a public authority in the UK, the Welsh Government, the Scottish Government, the Northern Ireland or

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the UK Government, or from the Government of a country or territory outside of the UK in response to the serious and imminent threat to public health posed by the incidence and spread of coronavirus

It must also be assumed that the measures necessary to ensure compliance with health and safety legislation are the measures that were necessary on 1 April 2015 to comply with such legislation.

Next steps

This technical consultation on the draft regulations will be open for a six-week period. Following the end of the consultation, all responses will be considered and any further amendments which may be required will be drafted.

A shortened consultation is considered necessary in this case due to the urgency around making these regulations in order to protect public finances.

Subject to the views submitted during this consultation exercise, it is intended that the draft regulations will be laid in the Senedd in the autumn term and commence from the date on which they are laid.

Consultation questions

Question 1

Do you consider there to be any issues with commencing the regulations from the date on which they are laid?

Question 2

Do the responses and measures listed under regulation 2(1) of the draft regulations suitably define the COVID-19 related responses and measures

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which may affect the rateable value of a property?

Question 3

Does the wording in regulation 2(2) of the draft regulations provide the necessary clarity to prevent COVID-19 related appeals being made going forward?

Question 4

Is any further clarity needed in the definitions set out in regulation 2(3) of the draft regulations?

Question 5

Do you have any other comments about the draft regulations?

Question 6

The Welsh Government would like your views on the effects these 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 7

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

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- 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 8

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 **27 September 2021**, in any of the following ways:

- complete our [online form](#)
- download, complete our [response form](#) and email LGFR.Consultations@gov.wales
- download, complete our [response form](#) and post to:

Non-Domestic Rates 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

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- 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 UK GDPR, please contact:

Data Protection Officer

Data Protection Officer
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

Email: 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

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UK 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.

Further information and related documents

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

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