



Llywodraeth Cymru
Welsh Government

OPEN CONSULTATION

Consultation on draft Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

We are seeking views on a draft Order. The Order alters the treatment of self-catering accommodation for local taxation purposes.

First published: 1 March 2022

Last updated: 1 March 2022

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

Contents

[Introduction](#)

[The self-catering criteria](#)

[Structure of the legislation](#)

[Consultation questions](#)

[How to respond](#)

[Your rights](#)

[Further information and related documents](#)

Introduction

This is a technical consultation on the draft Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022 (the Draft Order) attached at Annex A.

The Draft Order amends the criteria required to be met for a property to be classified as non-domestic self-catering accommodation for local taxation purposes. The provisions are intended to have effect from 1 April 2023.

The Welsh Government previously **consulted** on the policy intention, rationale and evidence base for this change, between 25 August and 17 November 2021. This consultation seeks views about the legislative and practical application of the Draft Order. The consultation will be open for a six-week period and will

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

close on 12 April 2022.

This consultation applies to Wales only.

The self-catering criteria

Within the local tax system, properties used for the purpose of providing self-catering accommodation (for example holiday lets) are treated as businesses and are liable for non-domestic rates, rather than council tax, subject to their meeting certain criteria set out in legislation.

The legislation underpinning the classification of properties in the local taxation system sets minimum short-term letting thresholds for classifying self-catering accommodation as non-domestic. The original legislation was subject to consultation prior to its introduction.

Section 66(2BB) of the Local Government Finance Act 1988 (inserted by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2010 and amended by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016) sets out the criteria for a property used to provide self-catering accommodation to be classified as non-domestic for local taxation purposes.

The current criteria are as follows:

- the property is intended to be available for letting commercially as self-catering accommodation for short periods totalling 140 days or more in the following 12-month period;
- the ratepayer's interest in the property enables them to let it for such periods;
- in the 12 months prior to assessment, the property has been available for letting commercially as self-catering accommodation for short periods totalling 140 days or more; and
- during that period the short periods it has actually been commercially let for amounted to at least 70 days

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

Where the criteria are not met, the property is classed as domestic and is liable for council tax.

The Welsh Government has identified the local taxation system as a potential vehicle to address concerns about the impact of high proportions of second homes on certain communities. A consultation seeking views on the operation of council tax premiums on second homes and long-term empty homes, the existing criteria for self-catering accommodation, and eligibility conditions for Small Business Rates Relief for self-catering accommodation ran from 25 August to 17 November 2021.

The views from the consultation supported the thresholds for self-catering accommodation being increased, with a wide range of suggestions for the precise level at which they should be set. The Welsh Government has decided to amend legislation to set new thresholds of actually let and available to let. This is intended to ensure that self-catering properties are required to make a much more substantial contribution to the local economy, in order to be considered businesses and liable for non-domestic rates, rather than council tax.

The Draft Order amends the length of time a property is required to be actually let, increasing it from 70 days to 182 days (26 weeks), and intended to be available to let and have been available to let, increasing them from 140 to 252 days (36 weeks). These changes would also apply to criteria introduced by the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2016, whereby an average for days actually let could be taken where multiple properties operated by the same business exist on a singular site, subsequently referred to in this document as 'aggregated property'.

It is recognised that a period of time will be required for self-catering operators to evidence the new criteria and for administrative bodies including local authorities and the Valuation Office Agency, to adapt their systems and processes. Any property being assessed prior to 1 April 2023 will, therefore, be treated in line with the existing criteria. From 1 April 2023, the new criteria will be used.

Structure of the legislation

The Draft Order makes amendments to Section 66 of the Local Government Finance Act 1988. The provisions amend subsection (2BB) by substituting new figures for the existing figures which correspond to either:

- the number of days a property is required to be intended to be made available to let in the 12 months following the day of assessment;
- The number of days a property is required to have been made available to let in the 12 months prior to the day of assessment;
- the number of days a property was actually let in the 12 months prior to the day of assessment; and
- the average number of days an aggregated property (whereby an average could be taken where multiple properties exist on a singular site) was actually let in the 12 months prior to the day of assessment.

Any current reference to 70 days for actually let will be replaced by 182 days, whilst any current reference to 140 days for intended to be made available to let and have been available to let will be replaced by 252 days.

The amended criteria will have effect from 1 April 2023.

The Draft Order also includes a transitional provision to clarify how properties assessed prior to 1 April 2023 will be treated. Article 3 is intended to ensure that properties assessed after the Order is made and prior to 1 April 2023 are treated in line with the current criteria, with the new criteria applying from 1 April 2023.

Consultation questions

Question 1

Does the amending of subsection (2BB) altering reference to '70 days' to now read '182 days', used to define the period a property or aggregated property is required to be actually let, provide clarity? If not, how can it be improved?

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

Question 2

Does the amending of subsection (2BB) altering reference to '140 days' to now read '252 days', used to define the period a property is required to be intended to be available to let and have been available to let provide clarity? If not, how can it be improved?

Question 3

Does the wording in Article 3 provide clarity that properties assessed prior to 1 April 2023 are treated on the basis of meeting the current thresholds?

Question 4

Are there any other issues regarding the practical application of the Draft Order?

Question 5

Do you have any other comments about the drafting of the Draft Order?

Question 6

The Welsh Government would like your views on the effects these proposals 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?

Question 7

Please also explain how you believe the proposals 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.

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.

Next steps

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

Subject to the views submitted during this consultation exercise, it is intended that the Draft Order will be laid before the Senedd in due course to come into effect as soon as possible afterwards and to have practical application from 1 April 2023.

How to respond

Submit your comments by **12 April 2022**, in any of the following ways:

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

- 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
- 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](#).

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

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

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

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. The 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.

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

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

WG Number: **WG44595**

You can view this document in [alternative languages](#). If you need it in a different format, please [contact us](#).

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).

About this document

This document is a copy of the web page [Consultation on draft Non-Domestic Rating \(Definition of Domestic Property\) \(Wales\) Order 2022](#) downloaded.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

This document may not be fully accessible, for more information refer to our [accessibility statement](#).

Get [information on copyright](#).

This document was downloaded from GOV.WALES and may not be the latest version.

Go to <https://gov.wales/consultation-draft-non-domestic-rating-definition-domestic-property-wales-order-2022-html> for the latest version.

Get [information on copyright](#).