



Llywodraeth Cymru
Welsh Government

PUBLICATION

Consultation on the draft non-domestic rating regulations to address fraud and avoidance

We are seeking views about measures to help address issues of fraud and avoidance.

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Introduction

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

Non-domestic rates raise more than £1.1bn every year in Wales. All this funding is used help to fund local public services which people and communities rely on.

Non-domestic rates should be collected as effectively and as fairly as possible. The overwhelming majority of ratepayers pay what is owed in full and on time, only a small minority avoid paying their fair share. Avoidance of non-domestic rates is to the detriment of local services, the wider community and other ratepayers.

A range of measures to combat non-domestic rates fraud and avoidance were consulted upon in the summer of 2018, following an evidence gathering exercise that took place in 2017. Following the consultation, the Cabinet Secretary for Finance **announced** a range of measures on 16 October 2018.

One of these measures was to introduce a new legal power for local authorities to request information from ratepayers and third parties providing a service in relation to a property, to support their role in the billing and collection of non-domestic rates.

This consultation seeks views on the draft Non-Domestic Rating (Persons Required to Supply Information and Service of Notices) (Wales) Regulations 2023, referred to in this consultation as 'the draft Regulations'. The draft Regulations set out measures aimed to help address issues of fraud and avoidance within the non-domestic rates system. The consultation is technical in nature and is seeking views on aspects of the clarity and practical implementation of the legislation.

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This consultation applies to Wales only.

Defining third parties from whom a local authority may request information

Information that would help local authorities ensure their billing details are accurate for a property may be held by parties that are neither the owner nor occupier of the property. For example, information held by a third party supplying a service in relation to a property may be able to help local authorities identify whether the property is occupied, by whom, and how it is being used. Currently, local authorities can request information, but third parties do not face any consequences if they choose not to respond to the request. Local authorities are of the view that those acting on behalf of ratepayers regularly fail to provide information that has been requested, in order to minimise rates liability. By creating a legal requirement, people who do not cooperate with local authorities will have less incentive to continue this behaviour, with a risk of being subject to a penalty for either non-compliance or for the provision of false information.

Following discussion with key stakeholders, it was decided that this measure should extend to utility companies. This is not because they are thought to aid avoidance, rather they may hold information that the local authority would have good reason to access and analyse when verifying a property's use and subsequent liability. This is not thought to place undue burden on the third parties concerned, as similar requirements exist in other areas of law. However, it will make information-sharing easier on the basis that there is a legal requirement attached to it.

The third parties carrying out a business in relation to the property from whom local authorities will be able to request information are:

- a person providing services relating to non-domestic rating (eg a rating

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agent)

- a water or sewerage undertaker
- a gas supplier or transporter
- an electricity supplier or distributor
- a public communications provider

The aim of the draft Regulations is to enable local authorities to identify certain changes impacting the rateable value of a hereditament or eligibility for relief and exemptions, and to assist in ensuring changes in ratepayer and use of a property are identified more promptly. This would improve the accuracy of non-domestic rates bills, reduce the potential for avoidance and result in more timely changes in liability.

Service of notices

It is important that, when introducing a duty, there is sufficient clarity as to how that duty would apply. A range of methods may be used by local authorities to make a request of a third party for information it may hold. These are:

- hand delivering it to the third party
- leaving it at the address of the third party
- sending it by post to the address of the third party
- sending it to the third party via electronic communication (for example email)

The notice would be considered to be delivered if served under one of these methods to the secretary or clerk of a business, or a partner in the case of a partnership.

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Structure of the legislation

The draft Regulations, set out in Annex A, define third parties from whom a local authority may request information, and provide for service of relevant notices.

The draft Regulations are structured such that Regulation 1 details the title and the 1 April 2023 commencement date, Regulation 2 defines key terms used in the other regulations, Regulation 3 sets out a list of third parties from whom a local authority may request information, and Regulation 4 sets out how notices may be served.

Regulation 3(a) seeks to broadly define a representative of a ratepayer. This is intended to include someone who may be handling non-domestic rates matters on behalf of a ratepayer, commonly referred to as a rating agent. These parties may hold information about the ratepayer's activity which could assist the local authority in determining the appropriate liability.

Regulation 3(b) to (g) seeks to broadly define a body providing a utility service to a property. These parties may hold information about the extent to which a property is used, and by whom, which could prove valuable to a local authority in carrying out their billing functions.

Regulation 4 details the various methods for how notices requesting information may be served by local authorities upon any of the third parties as set out in Regulation 3.

Next steps

This technical consultation on the draft Regulations will be open for a 12-week period. Following the end of the consultation, all responses will be considered

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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 Regulations will be laid in the Senedd in time for commencement from 1 April 2023, alongside the next rating list being applied following the current non-domestic rates revaluation.

Consultation questions

Question 1

Does Regulation 3 of the draft Regulations provide clarity on which third parties the regulations apply to? If not, how can it be improved?

Question 2

Does Regulation 4 of the draft Regulations provide clarity on the way notices may be served on third parties? If not, how can it be improved?

Question 3

Are there any issues regarding the administration and enforcement of the draft Regulations?

Question 4

Do you have any other comments about the draft Regulations?

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Question 5

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

1. opportunities for people to use Welsh
2. 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 6

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

1. 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
2. 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 7

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.

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How to respond

Submit your comments by **16 September 2022**, 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
- 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](#).

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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

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

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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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