

SL(6)329 – The Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023

Background and Purpose

Section 12B of the Local Government Finance Act 1992 allows local authorities to apply a higher amount of council tax (a council tax premium) to dwellings occupied periodically. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 (“the 2015 Regulations”) prescribe classes of dwelling that are exempt from a council tax premium.

The Council Tax (Exceptions to Higher Amounts) (Wales) (Amendment) Regulations 2023 (“the Regulations”) amend regulation 9 (Class 6) of the 2015 regulations to include properties subject to a planning condition:

- Preventing occupancy for a continuous period of at least 28 days in any one year period;
- Specifying that the dwelling may be used for holiday let only; or
- Preventing occupancy as a person’s sole or main residence.

The effect of the Regulations is that such a property cannot be charged a council tax premium.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.**

Paragraphs 4.5 to 4.9 of the Explanatory Memorandum provide the Welsh Government’s rationale for making properties subject to the specified planning conditions exempt from a council tax premium:



4.5 The [Non-Domestic Rating (Amendment of Definition of Domestic Property) (Wales) Order 2022] amends the minimum number of days a self-catering property is required to be made available to let in any 12-month period, from 140 to 252, and must be actually let, from 70 to 182, for the property to be classified as non-domestic from 1 April 2023 onwards.

4.6 Self-catering properties which do not meet the new criteria will be classified as domestic property and will be liable for council tax. This will include a premium where the local authority has determined to apply such a charge.

4.7 The Welsh Government is aware that some self-catering and periodically occupied properties are subject to planning restrictions which prevent sole or main occupancy or specifies their use as holiday let accommodation only. Such properties cannot be sold or let long-term as a home for a member of the local community – without a change of planning conditions – and are arguably not limiting the local housing stock by being let to holiday makers. The owners of such properties potentially have fewer options to respond to the new letting criteria.

4.8 The 2023 Regulations add properties subject to a planning condition which specifies that a dwelling may only be used for holiday let or which prevents occupancy of the property as a person's sole or main residence to class 6 set out in regulation 9 of the 2015 Regulations. These properties will become a class of dwelling in relation to which a billing authority may not make a determination to apply a higher amount of council tax. This class relates to properties which are occupied periodically. Such properties would become liable for council tax at the standard rate if they do not meet the letting criteria for non-domestic property, but they could not be charged a council tax premium.

4.9 These exceptions will apply from 1 April 2023, in conjunction with the increased thresholds for properties providing self-catering accommodation to be classified as non-domestic.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

14 March 2023



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee