

Explanatory Memorandum to the Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2010.

This Explanatory Memorandum has been prepared by Local Government Finance Division and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2010. I am satisfied that the benefits outweigh any costs.

Carl Sargeant

Minister for Social Justice and Local Government

4 March 2010

1. Description

These Regulations provide that billing authorities must give a 50% council tax discount on second homes in Wales owned by armed forces personnel whose main residence is in accommodation provided by the Ministry of Defence

2. Matters of special interest to the Constitutional Affairs Committee

None.

3. Legislative background

Section 12 of the Local Government Finance Act 1992 provides that the Welsh Ministers may make regulations in respect of classes of dwellings in Wales for which a billing authority may, by determination, apply a discount. The Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998, which are being amended here, were made under section 12 of the 1992 Act.

These Regulations are subject to the negative resolution procedure.

4. Purpose & intended effect of the legislation

Local authorities in Wales have discretion in respect of the council tax discounts they allow on second homes in Wales owned by service personnel who live in accommodation provided by the Ministry of Defence.

Local authorities can decide whether to charge owners of second homes the full council tax or to allow a discount of up to 50% from the first day the dwelling becomes a second home. In the majority of cases Welsh local authorities do not give discounts on such homes.

While local authorities have the power to reduce or remove discounts on second homes in Wales, there are exceptions to this power in a number of circumstances, including where a person's second home is job related. In such circumstances, a 50% discount must be given.

To qualify for this job-related discount a person must be liable for the council tax on another property. Persons living in armed forces accommodation are not liable for council tax (although they do pay 'Contributions in Lieu of Council Tax' to the Ministry of Defence). They are not therefore qualifying persons within the definition in the regulations, and the exception does not apply. This means that local authorities have the power to reduce or remove the discount on their Welsh home.

The Council Tax (Prescribed Classes of Dwellings) (Wales) (Amendment) Regulations 2010 provide that billing authorities must give the 50% council tax discount for second homes owned by armed forces personnel who live in accommodation provided by the Ministry of Defence.

In England, authorities are required to give a 50% discount.

Initial enquiries suggest that the number of properties that will be eligible for this discount will be very small (about 6 on average in each local authority area) but

there is no certainty about this because there is no way of counting the second homes belonging to armed forces personnel separately from other second homes in Wales. Therefore, there is some uncertainty about the cost implications for local authorities. After the first year of discounts, when the data is available, the formula for distributing the Revenue Support Grant can be adjusted to take the loss of income into account.

5. Consultation

A consultation with local authorities, the Valuation Office Agency, the Valuation Tribunal Service in Wales and the Armed Forces Federation took place between 17 December 2009 and 1 February 2010. The consultation document was published on the Assembly Government website during this period. Results from the consultation are included below.

Regulatory Impact Assessment (RIA)

6. Options

- Do nothing. Armed forces personnel would not receive a discount on the council tax that is payable on their second homes in most local authority areas in Wales. Currently only 3 local authorities out of 22 give a council tax discount on second homes.
- Introduce a voluntary code of practice whereby local authorities would be asked to use their discretionary powers to give discounts to armed forces personnel with second homes in Wales. A small number of local authorities currently use their discretion to give council tax discounts on second homes but they apply this discount to all second homes, not just those belonging to service personnel. It is unlikely that introducing a voluntary code of practice would result in a consistent application of policy across all local authorities in Wales.

7. Costs & benefits

Costs - There will be no cost to the Assembly Government, business or the voluntary sector because of this change to legislation. Local authorities will suffer a reduction in income as a result of the council tax discount given to armed forces personnel. In the first year that this change takes effect, local authorities will bear the cost.

It is impossible to quantify the cost with any certainty but on the assumption that there will be an average of 6 properties in each authority (as indicated by initial assessments) the cost will be approximately £3,250 per authority or £72,000 for Wales as a whole, based on the average band D council tax of £1,086 in 2009-10. Should there be significantly more properties affected by the change, say an average of 20 per authority, the cost would be approximately

£12,000 per authority or £260,000 across Wales. This will have a minimal effect on local authority services to the public.

It is likely that the cost to authorities will not be evenly spread across Wales as some local authorities may have more second homes than others. After the first year, when the number of affected properties will be known, the Revenue Support Grant formula can be adjusted so that the cost is evenly spread across Wales and no local authority will be unfairly burdened.

Benefits The beneficiaries of this change to Regulations will be armed forces personnel whose main residence is in Ministry of Defence accommodation and who have second homes in Wales. They will enjoy a 50% reduction in the council tax liability on their second home.

This will redress what is perceived as an unfair difference between armed forces personnel with second homes in Wales and their counterparts in England who currently receive the 50% discount.

8. Consultation responses

Five responses were received to the consultation. Four were from local authorities and one from the Valuation Tribunal Service for Wales. All supported the draft regulations. A summary of responses is attached at Annex A.

9. Competition Assessment

The proposed Regulations do not affect business, charities, or the voluntary sector.

10. Post implementation review

This will be reviewed by the Local Taxation Working Group. This group, which is a discussion forum attended by Revenue Officers, the Valuation Office Agency and other parties with an involvement in local taxation issues, will allow any issues surrounding the proposal to be brought forward and reviewed.

As the estimated number of properties affected by this proposal is very low, it is not expected that a formal review process other than discussion at this forum will be required. The small number of cases would generate minimal evidence to justify a formal review, so informal discussion at the working group would prove the more practical and efficient review method. On the basis of any issue arising, a decision could then be made at the working group as to whether a more formal or in-depth investigation and review would be required.

Annex A
Consultation Responses

Welsh Assembly Government consultation on a proposal to amend the Council Tax (Prescribed Classes of Dwellings) (Wales) Regulations 1998 to provide that billing authorities must give a 50% council tax discount for second homes owned by armed forces personnel who live in accommodation provided by the Ministry of Defence.

No.	Name and Organisation	General Comments
1	Gwyn Jones. Ceredigion County Council 18 Jan 2010	Had discussed the proposal with colleagues and confirmed that they supported the proposal.
2	Nigel Smith. Vale of Glamorgan Council 19 Jan 2010	Welcomes this amendment to the current regulations and wishes to support the Armed Services by the introduction of these measures.
3	Dafydd Edwards. Gwynedd County Council 26 Jan 2010	Believes that the amendment to the regulation (and the action to ensure consistency with the relative regulation in England) is timely considering the current situation with military services abroad, and to be welcomed for fairness for every individual whether their home is here or in England. Questions whether there is any policy intent to extend the categories of job-related discounts to include Ministers of Religion.
4	Governing Council of the Valuation Tribunal Service for Wales 29 Jan 2010	Supports the amendment to Regs which will prevent billing authorities from reducing the 50% discount on second homes where qualifying persons are armed forces personnel who are required to live in alternative accommodation provided by the Ministry of Defence. The regulations will provide consistency with regard to the treatment of such dwellings in both England and Wales.
5	Gary Watkins, City and County of Cardiff 1 Feb 2010	Supports the changes to the regs to ensure that military personnel pay 50% council tax for second homes.