  

22 June 2022

Dear Minister

**Exemptions to the proposed amendment to the Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022**

Further to our letter of 26th May and your reply of 9th June, we are grateful for your agreement to meet for further discussion on exemptions et al to the above Order (email Deborah Maidment 17th June). Could we suggest either 13th July or morning of 14th July please? We would be grateful if this could be via Zoom to accommodate attendees who will be some distance away. At this point, we propose that Adrian Greason-Walker (WTA), Alistair Handyside (PASC), Dave Chapman (UKH) and myself join you and officials.

Firstly, just to be clear I am writing on behalf of the Trade Associations representing professional self-catering businesses in Wales, not second home owners or casual lets. We are unified in our opposition to the 182-day threshold provision in the Order.

Whilst we understand that you intend to push forward with the introduction of the 182-day threshold, it has been difficult to see the evidence of harm, that we submitted from those professional businesses, reflected in the decision. You will recall the 400+ private testimonials to the ‘technical’ consultation, plus the further 1,100 which we offered you. This is not a case of anger on the part of small business owners: It is evidence of economic and personal impact. As of today, we are still unaware of the evidence that Welsh Government has which contradicts or outweighs that evidence, and we hope to learn more about that in the annulment debate on 6th July. We still appeal to you to lower the proposed 182-day threshold, even if to a compromise position which reflects average UK occupancy or the similar measure in Scotland.

During this process the Welsh Government has promised to listen to concerns and consider exemptions in order to mitigate impact on real businesses. You stated:

*“The Welsh Government recognises that some self-catering properties are restricted by planning conditions preventing permanent occupation as someone’s main residence. The Council Tax (Exceptions to Higher Amounts) (Wales) Regulations 2015 provide for an exception from a council tax premium for properties restricted by a planning condition preventing occupation for a continuous period of at least 28 days in any one-year period. In light of the changes, we are introducing to the letting criteria, I am also exploring whether further amendments to these regulations are necessary in advance of the changes taking practical effect. I will also be issuing revised guidance to local authorities on additional options that are available in the event that self-catering properties restricted by planning conditions do not meet the letting criteria.”*

We wish to assist you with that and, attached, is a list of discussion points which we hope will help frame our meeting.

We will also wish to discuss the timing of the implementation of the Order as it will come into force less than a year from being laid. We have written separately to Visit Wales to help us understand what bespoke steps they will be doing to help businesses achieve the occupancy threshold within this current financial year. It is appropriate that Government does what it can to mitigate the consequences of its decision.

On which, the need to review and agree the exemptions and mitigations in order to ensure that properties affected by planning consent, location, inadequate space/condition for permanent habitation and unavoidable personal circumstances is urgent if they are not to be caught in the consequences of this new threshold. As you will have seen, 30% of professionally run businesses (as opposed to second homes) have told us that they will have to close or sell.

We hope the attached briefing paper is helpful.

Yours sincerely,

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Briefing Paper: Exemptions to Non-Domestic Rating (Definition of Domestic Property) (Wales) Order 2022

**Key asks.**

1/ That this does not start from April 2022. It should not, in effect, be retrospective. Almost 25% of the year from April has already passed. We need a transition period, as is normal with these kinds of changes, to allow businesses to attempt to change. Mindful of the effect of the cost of living on discretionary spend, we suggest 2 or 3 years to allow the market to recover.

2/ An appeals process in defined circumstances.

**Exemptions**

1/ Properties that are limited by planning permission to only be short term commercial lets

2/ Properties that lie within the curtilage of an owner’s primary residence

3/ Owners who have multiple units on one site, (e.g., a holiday cottage complex) can average occupancy across the units.

4/ Farming/horticulture diversification businesses

5/ Where the units are not housing stock withdrawn from the market but can be proved through recorded planning and building control that they have been created from vacant commercial or agricultural buildings.

6/ Exemptions for cottage businesses that are in effect "small resorts" or complexes. Sites that have multiple units on site owned by the same person, where facilities are provided for and shared by those staying on site. For example, if they have pools and games rooms, gyms, a play area, coffee shops. The practicalities (or even the ability) to actually split a business where some cottages would meet the new 182-day criteria and others wouldn't, would be basically impossible.

7/ Where the property is already run by a charity

8/ Weeks given by owners to raise money for charities should count towards days let, max two weeks per year (Either for Charitable status or Not for Profit).

9/ Where the accommodation is a supplementary part of a bigger business, events, weddings etc.

10/ If your short-let business is VAT rated

11/ Formal review of 182 days if Wales officially goes into recession.

12/ Pandemics or forced local closure

13/ Period of grace for new business entrants who would not get to 182 days in the first crucial years

14/ Where property is deemed unsuitable for permanent residence due to different regulatory thresholds (eg, room size, no kitchen space, safety measures))

**Dispensations/pro rata reduction in 182 Days**

1/ An exemption on dates taken up carrying out repairs and refurbishment

2/ An exemption on dates taken up carrying out property improvements

3/ An exemption on dates taken up because of closure due to ill-health or caring responsibilities

**Some key questions**

1/How will days be calculated, (e.g., late cancellations)

2/ What is a commercial rate for letting a property?

3/ What happens when an owner has 7 units on one Rateable Value, does this merge to one property on Council Tax rating or is it x 7?

4/ Similarly, if the unit is within the curtilage of a domestic property, will the values be separate or combined?

5/ How quickly will a unit receive its domestic band rating for council tax purposes?

6/ What will happen to pop up businesses? How will these be rated?

7/ What will happen to all the properties that the Councils don’t know about?

8/ What happens to businesses which meet the threshold some years and not others?