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Creating sustainable communities

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Council Tax:  
Review of Regulations on Discounts  
for Second Homes and  
Long Term Empty Property

Consultation Paper

December 2004



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Office of the Deputy Prime Minister: London

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# Introduction

1. This consultation paper seeks views on minor proposed changes to the regulations which allow local authorities in England to reduce the discount on council tax for second homes from 50% to a minimum of 10%, and to reduce or remove the 50% discount on long term empty properties. The proposed changes are restricted to the way in which the job related dwelling concession operates in respect of people who have their main home outside England.
2. A copy of this consultation paper has been sent to all English local authorities, the Local Government Association, the Association of London Government, the Valuation Office Agency, the Chartered Institute of Public Finance and Accountancy, the Institute of Revenues, Rating and Valuation, Citizens Advice Bureaux on behalf of the Citizen generally, and has been made available on the web-site of the Office of the Deputy Prime Minister (ODPM) at [www.local.odpm.gov.uk](http://www.local.odpm.gov.uk)
3. We invite responses to the consultation questions on page 5 and any other comments by 28 January. This is to ensure that any amendments to the regulations can be in place for the start of the 2005/06 financial year.
4. Please send paper responses to:  
**Ronnie Gasper,**  
**LGF2, ODPM**  
**Zone 5/H5, Eland House,**  
**Bressenden Place**  
**London SW1E 5DU**  
  
Or e-mail responses to [counciltax.consultations@odpm.gsi.gov.uk](mailto:counciltax.consultations@odpm.gsi.gov.uk)
5. Further copies of this consultation paper can be obtained from 0870 1226 236 or on the ODPM website at [www.local.odpm.gov.uk](http://www.local.odpm.gov.uk)
6. If you have any enquiries, please contact David McDonald on 020 7944 4206 or fax to 020 7944 4179.
7. A summary of the responses to this consultation will be published on the ODPM website ([www.odpm.gov.uk](http://www.odpm.gov.uk)) by 22 April 2005. The Office may also wish to publish responses to this consultation exercise in due course or deposit them in the Office's Library. If so, all responses received will be published or deposited, unless a respondent specifically asks the Office to treat their response as confidential. Confidential responses will be included in any statistical summary of the numbers of comments received and views expressed. If you are replying by email, any confidentiality disclaimer generated by your organisation's IT system will be overridden, unless you specifically include a confidentiality request in the main text of your submission to us.

## **COMMENTS AND COMPLAINTS**

8. This consultation is being undertaken in accordance with the *Code of Practice on Consultation*. The consultation criteria are set out at Annex B together with information on how to make comments or complaints about the consultation procedure.

Office of the Deputy Prime Minister  
December 2004

# Consultation Questions

## **Question 1**

Should the regulations be amended to ensure that generally, the 50% second homes discount is retained in England where the main home is in Wales or Scotland (regardless of which home is job related)?

## **Question 2**

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where service personnel live in job related dwellings in Scotland?

## **Question 3**

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where a minister of religion's job related dwelling is in Scotland?

## **Question 4**

Should the job related concession be extended generally to include dwellings in Northern Ireland, (regardless of which dwelling is job-related)?

## **Question 5**

Should the job related concession be extended in particular to include job related dwellings in Northern Ireland?:

1. For ministers of religion
2. For service personnel

## **Question 6**

Should the job related concession be extended generally to include dwellings in other specific places/everywhere outside the UK (regardless of which dwelling is job-related)?

## **Question 7**

Should the job related concession be extended in particular to include job related dwellings in other specific places/everywhere outside the UK?:

- 1 For ministers of religion
2. For service personnel

# Review of Regulations on Discounts: Background and Options for Change

1. Following a consultation exercise in 2001<sup>1</sup>, the Government announced that from April 2004 billing authorities would have the discretion to set the council tax discount on second homes<sup>2</sup> at any point between 50% and 10% and on long term empty properties property at any point between 50% and zero. Authorities in the areas affected would retain the additional income from the changed discounts on second homes but not from long term empty property. The minimum 10% discount was retained so that second homes owners would still have an incentive to identify their properties as second homes. Without this, there would be no way to identify the additional resources generated by second homes and allow the retention by local authorities.
2. To protect the position of people such as ministers of religion and publicans, local authorities cannot in certain circumstances reduce the discount on second homes of people who are required to live in a particular property because of their employment terms and conditions.
3. ODPM has been monitoring the operation of these regulations. Annex A of this paper provides details of the estimated use of these powers. The figures are based on the 2004/05 CTB1 (Supplementary) returns from billing authorities. The returns show that as of November 2003 almost 60% of authorities planned to change the second homes discount and nearly 45% planned to change the long term empties discount. ODPM aims to publish figures on the actual use of these powers early next year.

## LEGAL FRAMEWORK

4. Section 11A of the Local Government Finance Act 1992<sup>3</sup> gives the Secretary of State the power to prescribe classes of dwellings for which a billing authority may set the council tax discount offered on second homes at any point between 50% and 10%, and on long term empty properties property at any point between 50% and zero.
5. The Council Tax (Prescribed Classes of Dwelling) (England) Regulations 2003<sup>4</sup> set out two classes of dwellings where the billing authority may determine to reduce the second homes discount. The purpose of having two classes was so that local authorities could differentiate between those dwellings which could be lived in all year, and those that could not because of a planning restriction.

1 Council Tax – A consultation paper on proposed changes for second homes and long term empty property

2 Although the term “second home” is used for ease of reference, the new legislation does in fact cover any unoccupied furnished property which is no one’s sole or main residence

3 Inserted by section 75 of the Local Government Act 2003

4 (SI 2003/3011)

6. The classes are:

**Class A**, where the occupation of the second home is restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year; and,

**Class B**, where the occupation of the second home is not restricted by a planning condition preventing occupancy for a continuous period of at least 28 days in the relevant year.

7. An empty property which is unoccupied and substantially unfurnished is exempt from council tax for up to six months. Class C of the regulations ensures that once that exemption has elapsed (i.e. once it becomes a “long term empty”) billing authorities can set the discount on the property at any point between 50% and zero.
8. Regulation 6 and the Schedule to the regulations ensure that the 50% discount cannot be reduced on a second home where a qualifying person is required to live in job related accommodation as part of their job. Generally, the job related dwelling can be either the main home or the second home.
9. The definition of a “qualifying person” includes a person who would have been liable for council tax in respect of a dwelling if that dwelling did not fall within Class O (Armed forces accommodation (UK forces)) of the Council Tax (Exempt Dwellings) Order 1992<sup>5</sup> (as amended by the Council Tax (Exempt Dwellings) (Amendment) (Order) 1992<sup>6</sup>). This was intended to ensure that billing authorities could not reduce the discount for service personnel whose main home was provided by the Ministry of Defence (MoD).
10. The 2003 regulations were subsequently amended by the Council Tax (Prescribed Classes of Dwelling) (Amendment) (England) Regulations 2004<sup>7</sup> so that a “qualifying person” includes a person who would have been liable for council tax in respect of a job related main home if that dwelling did not fall within Class E of the Council Tax (Liability for Owners) Regulations 1992. This was to ensure that the 50% discount was retained for most ministers of religion with main homes that are job related.

## **OPERATION OF THE JOB RELATED CONCESSION AND OPTIONS FOR CHANGE**

11. For the most part, council tax has to be payable on both dwellings for the concession to apply. Therefore, it is ODPM’s informal view that the discount is currently **not** retained where the main home is outside of Great Britain, as council tax does not exist outside Great Britain.
12. It is also arguable whether the 50% discount is retained where the main home is in Wales or Scotland because the 2003 and 2004 Regulations state that they “apply to dwellings in England only”. It therefore depends on how the definition of “dwelling” is interpreted. This ultimately is a matter for the courts. It was the policy intention that the regulations would include all main homes in Great Britain and therefore, to clear up the uncertainty, it is proposed that the regulations are amended to ensure that generally, the discount is retained where the main home is in Wales or Scotland (regardless of which home is job related).

5 S.I. 1992/558

6 S.I. 1992/2941

7 S.I. 2004/926

**Consultation Question 1**

Should the regulations be amended to ensure that generally, the 50% second homes discount is retained in England where the main home is in Wales or Scotland (regardless of which home is job related)?

13. The 50% discount is not retained where service personnel live in job related dwellings in Scotland. This is because the MoD domestic property exemption in Scotland is not defined by reference to Class O of the Council Tax (Exempt Dwellings) Order 1992. It is proposed that the regulations are amended so that the discount is retained where service personnel live in job related dwellings in Scotland.

**Consultation Question 2**

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where service personnel live in job related dwellings in Scotland?

14. The 50% discount is not retained where a minister of religion's job related property is in Scotland. This is because the transfer of liability to the owner is not achieved by reference to Class E of the Council Tax (Liability for Owners) Regulations 1992. It is proposed that the regulations are amended in particular so that the discount is retained where the job related accommodation is in Scotland.

**Consultation Question 3**

Should the regulations be amended in particular to ensure that the 50% second homes discount is retained in England where a minister of religion's job related dwelling is in Scotland?

15. ODPM has received representations requesting that the job related concession is extended so that it includes dwellings that are in Northern Ireland and/or places outside the UK. The regulations could be extended generally or in particular for ministers of religion and/or service personnel with job related properties outside of Great Britain. However, there have not been a significant number of representations on this issue, and an extension of this nature would, of course, break the link of council tax being payable on both properties and this could make the concession more difficult to administer. Although council tax is not paid in Northern Ireland, it may be more practicable to extend the concession to cover that region but not to include places outside the UK. ODPM would welcome views on this.

**Consultation Question 4**

Should the job related concession be extended generally to include dwellings in Northern Ireland, (regardless of which dwelling is job-related)?

**Consultation Question 5**

Should the job related concession be extended in particular to include job related dwellings in Northern Ireland?:

1. For ministers of religion
2. For service personnel

**Consultation Question 6**

Should the job related concession be extended generally to include dwellings in other specific places/everywhere outside the UK (regardless of which dwelling is job-related)?

**Consultation Question 7**

Should the job related concession be extended in particular to include job related dwellings in other specific places/everywhere outside the UK?:

1. For ministers of religion
2. For service personnel

16. ODPM has also received representations requesting that the job related concession is extended to include all people who worked some distance away from their main home and so kept another home near to their work. The job related concession was only intended to prevent billing authorities from reducing the discount in the limited number of cases where people, such as vicars or publicans, are expressly required to live in a particular property because of their employment terms and conditions. This is because such people have (little or) no choice where they live and, for example, may wish to remain on the property ladder by retaining or buying their own home. The Government recognises that other people may maintain two homes because of the circumstances of their employment. However, it was not the Government's intention that the job related dwelling concession would include such situations and there are no plans to extend the regulations in that way.

## **OTHER ISSUES**

### **Beach Huts and Chalets**

17. ODPM has also received representations from owners and occupiers of beach huts and chalets (particularly from those with lease or contractual limitations that prevent all year occupancy) who feel that the 50% discount should be retained on such properties. The reasons given include: that the properties are often low in value; that they use few local authority services; and that they are often only used for a few months each year.
18. Under section 11A(3) local authorities can apply the reduced discount to dwellings in all or part of its area. So an authority is able, for example, to chose to exclude from the changed discount the area along the promenade where the beach hut sits or the area of the chalet site. ODPM therefore considers there are sufficient powers to enable local authorities to retain the 50% discount for groups of beach huts or for chalet sites, if they so wish. ODPM therefore has no plans to create a specific class to differentiate beach hut and chalet sites. However, ODPM will keep this matter under review.

### **The Single Person's Discount**

19. ODPM has received a number of representations requesting that there should be the equivalent of the single person's discount on second homes. The single person's discount requires a test of residency and this is not possible in the case of second homes, which are no-one's sole or main residence. There are no plans to amend the legislation in this area.

### **Long Term Empty Property**

20. ODPM has received no substantial representations on the regulations relating to the long term empty discount. No changes to the regulations are proposed.

## **REGULATORY IMPACT ASSESSMENT**

21. The proposals in this consultation document relate to clarifying and extending the job related dwelling concession. No extra information will be collected and so there will be no additional burden on taxpayers, whether they are individual citizens, businesses or voluntary bodies. Nor will the effect on public bodies exceed the £5million per annum Public Services Threshold test. A regulatory impact assessment has therefore not been produced.

## **CONCLUSIONS**

20. ODPM would welcome views on the consultation questions listed above and in addition invites any other views on the operation of these regulations.

Office of the Deputy Prime Minister  
December 2004

# ANNEX A

## COUNCIL TAX: ANTICIPATED USE OF POWERS TO CHANGE DISCOUNTS ON SECOND HOMES AND LONG TERM EMPTY PROPERTY FROM APRIL 2004

Region	No of billing authorities	No which have changed second homes discount	% which have changed second homes discount	No which have changed long term empties discount	% which have changed long term empty discount
East	47	33	70%	23	49%
East Midlands	4	9	23%	9	23%
London	33	23	70%	19	58%
North East	23	7	30%	4	17%
North West	43	13	30%	5	12%
South East	68	53	78%	43	63%
South West	45	43	96%	31	69%
West Midlands	34	12	35%	8	24%
Yorkshire & the Humber	21	14	67%	14	67%
<b>England</b>					
<b>Totals</b>	354	207	59%	156	44%

Figures on the actual use of the powers are expected to be available in early 2005.

# ANNEX B

## THE CONSULTATION CRITERIA

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation.

Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (e.g. under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless Ministers conclude that exceptional circumstances require a departure.

- 1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
- 2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**
- 3. Ensure that your consultation is clear, concise and widely accessible.**
- 4. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- 5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- 6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

The full consultation code may be viewed at

[www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm](http://www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm)

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact

David Plant,  
ODPM Consultation Co-ordinator,  
Room 2.19,  
26 Whitehall,  
London, SW1A 2WH;

or by e-mail to:

[david.plant@odpm.gsi.gov.uk](mailto:david.plant@odpm.gsi.gov.uk)