

# SL(5)427 – The Landfill Disposals Tax (Wales) Act 2017 (Reliefs) (Miscellaneous Amendments) Regulations 2019

## Background and Purpose

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These Regulations amend sections 8 and 32 of the Landfill Disposals Tax (Wales) Act 2017 (the Act).

Regulation 2 amends the definition of “restoration work” in section 8(4) of the Act to make it clear that work carried out to restore a landfill disposal area that has not been capped is capable of being restoration work.

As a result of this amendment, taxable disposals made to restore a landfill disposal area which has not been capped may be eligible for relief (under section 29 of the Act), provided that they satisfy the other elements of the definition of restoration work in section 8(4), and comply with the requirements in section 29(1).

Regulation 3(a) amends section 32 of the Act to extend the scope of the relief from landfill disposals tax in respect of certain taxable disposals made when filling quarries and open-cast mines. As a result of this amendment, a disposal of a qualifying mixture of materials (as defined by section 16 of the Act) may be eligible for relief (subject to the other conditions set out in section 32). A qualifying mixture of materials consisting entirely of fines will not be eligible for relief.

Regulation 3(b) makes a related amendment to the condition imposed by section 32(1)(d) of the Act. This amendment ensures that where a taxable disposal of a qualifying mixture of materials (excluding fines) has been made on or after 1 April 2018, but before the coming into force of these Regulations, and the disposal is one that would be relieved from tax if it were made after these Regulations come into force, the making of that disposal does not prevent future disposals from being eligible for relief under section 32.

## Procedure

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Affirmative.

## Technical Scrutiny

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

## Merits Scrutiny

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One point is identified for reporting under Standing Order 21.3(i) in respect of this instrument.

**Standing Order 21.3(i) - that it imposes a charge on the Welsh Consolidated Fund or contains provisions requiring payments to be made to that Fund or any part of the government or to any local or public authority in consideration of any licence or consent or of any services to be rendered, or prescribes the amount of any such charge or payment**

Devolved taxes are paid into the Welsh Consolidated Fund, in accordance with section 25 of the Tax Collection and Management (Wales) Act 2016 (the 2016 Act). This states as follows:



25(1) WRA<sup>1</sup> must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund...

These Regulations amend the reliefs available in respect of landfill disposals tax, and so may necessarily affect the tax receipts collected and paid into the Welsh Consolidated Fund.

The Explanatory Memorandum to the Regulations states at paragraph 4.4 that the amendment to section 8(4) will *“ensure that the relief for site restoration work...will still be available in appropriate cases where a cap is required, but will also be available to those inert landfill sites which do not require a cap”*.

In respect of the amendments made to section 32 the Explanatory Memorandum at paragraph 4.6 states that *“the amendments made to section 32 of the LDTA are designed to ensure that the initial policy intention to provide a relief from tax for disposals of materials presenting low environmental risk and being used where necessary to refill an open-cast mine or quarry is being effectively delivered”*.

The Explanatory Memorandum does not provide an estimate of the reduction in tax receipts expected as a result of the changes made by these Regulations. The Explanatory Memorandum states that *“given these regulations are designed to ensure the original policy intention is realised in practice, no RIA is proposed”*.

## Implications arising from exiting the European Union

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No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

## Government Response

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The purpose of these amendments is to ensure the legislation is drafted in a way which fully reflects the original intention of the Act. Consequently, any potential revenue impact as a result of these amendments is likely to be negligible. It is however hoped that the amendments would make the administration of landfill disposals tax easier and fairer and therefore have a positive impact on the tax risk work of WRA in these areas.

For the relief for refilling open-cast mines and quarries, we don't anticipate this change benefitting any sites other than those currently claiming quarry relief. This change is more to ensure legislation and practice are aligned in terms of material going into the quarry. The amended legislation will align with the current HMRC position. Therefore, we would expect minimal impact on revenue.

The change to the definition of site restoration work will mean that inert sites in Wales may be able to claim site restoration relief even if they do not have a cap. The small number of inert sites, coupled with their existing ability to claim quarry relief on most of the restoration work in any event, means we anticipate a minimal potential revenue impact.

## Committee Consideration

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The Committee considered the instrument, along with the Government response, at its meeting on 8 July 2019 and reports to the Assembly in line with the reporting points above.

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<sup>1</sup> In the 2016 Act, the Welsh Revenue Authority is referred to as the WRA, see section 2(2).

