

SL(6)307 – The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2022

Background and Purpose

The Regulations are made under the Landfill Disposals Tax (Wales) Act 2017 (“LDT Act”). The LDT Act establishes and sets out the framework and operational arrangements for landfill disposals tax which replaced UK landfill tax (Lft) in Wales. These Regulations prescribe the standard rate, lower rate and unauthorised disposals rate for landfill disposals tax, which will apply to taxable disposals made on or after 1 April 2023.

The rates from 1 April 2023 are as follows:

- The standard rate is **£102.10** per tonne (increased from £98.60 per tonne),
- The lower rate is **£3.25** per tonne (increased from £3.15 per tonne), and
- The unauthorised disposals rate is **£153.15** per tonne (increased from £147.90 per tonne).

Taxable disposals made on or after 1 April 2022 but before 1 April 2023 will remain subject to rates set by the Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2021.

Procedure

Made Affirmative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

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

Merits Scrutiny

The following 3 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 23.1(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.**



Section 25 of the Tax Collection and Management (Wales) Act 2016 provides that the Welsh Revenue Authority must pay amounts collected in the exercise of its functions into the Welsh Consolidated Fund. The Welsh Revenue Authority is responsible for the collection and management of landfill disposals tax. These Regulations prescribe the three rates of landfill disposals tax in Wales.

2. 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.

The Welsh Tax Policy Report 2022, published alongside the Welsh Government’s draft budget for 2023-24, refers to an independent review, the purpose of which is to evaluate the effectiveness of the LDT Act. This arrangement seeks to meet the commitment given by the then Cabinet Secretary for Finance and Local Government during Stage 3 proceedings for the LDT Act that there should be an independent review of landfill disposals tax, similar to that agreed in the context of land transaction tax, covering the whole of the tax.

The Explanatory Memorandum to these Regulations states that an independent review of landfill disposals tax is underway to meet that commitment. Specifically, the Explanatory Memorandum notes:

“4.22 An interim report, outlining initial findings, was completed on 30 September 2022 and contained findings drawn from a review of key data and literature. The findings of the interim report are limited, and more detailed research is needed to fully explore the questions we are seeking to answer through the review. However, the interim report highlights the challenge of isolating the impact of LDT in terms of incentivising increases in recycling and reuse of materials, encouraging use of more sustainable technologies and influencing behaviour change across the waste management sector. This is because LDT is one of a range of policy tools which are in place to support the achievement of the Welsh Government’s environmental goals. The role of LDT in working alongside these other policy tools will be explored in more detail during the next phase of the review.

4.23 The final review report is expected to be published towards the end of spring 2023.”

3. 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.

Welsh Government has relied on Standing Order 15.4 to justify the laying of an English only Explanatory Memorandum, on the grounds that *“it is not considered appropriate in the circumstances or reasonably practicable to lay it in English and Welsh”*. A Welsh language Explanatory Memorandum would help any Welsh speakers who are interested in the background and purpose of, and regulatory impact assessment for, the Regulations.

Welsh Government should explain why it is not considered appropriate or reasonably practicable to lay the Explanatory Memorandum in Welsh.



Welsh Government response

Merit Scrutiny Point 3:

The Welsh Government is committed to increasing the number of Explanatory Memoranda and Regulatory Impact Assessments for Statutory Instruments that are laid bilingually in the Senedd. Standing Order 15.4 of the Senedd requires all documents to be laid bilingually so far as is appropriate in the circumstances and reasonably practicable, and Standard 47 of the Welsh Language Standards (the statutory duties imposed on the Welsh Ministers by the Welsh Language Commissioner) requires us to consider the subject matter and the anticipated audience of certain documents to prioritise their translation. Under guidance provided by the Commissioner's office (in their Code of Practice for the Welsh Language Standards (No. 1) Regulations 2015), in prioritising these documents for translation at this time, we considered issues such as whether the Regulations related to issues affecting the Welsh language directly, whether the Regulations were of great interest to Welsh speaking groups in particular, and whether a high proportion of the documents' audience would be Welsh speaking. As the Regulations are of a technical nature and will affect only an extremely small proportion of the population, the Explanatory Memorandum has not been deemed a priority for translation at this time.

Committee Consideration

The Committee considered the instrument and Government response at its meeting on 16 January 2023 and reports to the Senedd in line with the reporting points above.

