

## **Explanatory Memorandum to The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulation 2025**

This Explanatory Memorandum has been prepared by Welsh Treasury: Tax Strategy and Intergovernmental Relations Division and is laid before Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

### **Cabinet Secretary's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2025 and I am satisfied that the benefits justify the likely costs.

**Mark Drakeford MS**  
**Cabinet Secretary for Finance and Welsh Language**  
13 February 2025

## **PART 1 – Explanatory Memorandum**

### **1. Description**

- 1.1. The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2025 (“the regulations”) are being made under the Landfill Disposals Tax (Wales) Act 2017 (“LDT Act”)<sup>1</sup>. The LDT Act establishes and sets out the framework and operational arrangements for landfill disposals tax which replaced UK landfill tax in Wales when it was devolved in April 2018.
- 1.2. These Regulations will amend the standard rate and lower rate and unauthorised disposals rate for landfill disposals tax which will apply to taxable disposals made on or after 1 April 2025 in Wales. Taxable disposals made on or after 1 April 2024 but before 1 April 2025 will remain subject to rates set by The Landfill Disposals Tax (Tax Rates) (Amendment) and Tax Collection and Management (Wales) Act 2016 (Miscellaneous Amendments) (Wales) Regulations 2024 as a result of the amendment made by regulation 4 of these Regulations.
- 1.3. Subject to the will of the Senedd, the Regulations will come into force on 1 April 2025.

### **2. Matters of special interest to the Legislation, Justice and Constitution Committee**

- 2.1. None.

### **3. Legislative background**

- 3.1. The Regulations are being made pursuant to sections 14, 46, 93 and 94(1) of the LDT Act:
  - Section 14 gives the Welsh Ministers powers to make regulations to prescribe the standard rate and the lower rate; and,
  - Section 46 gives the Welsh Ministers powers to make regulations to prescribe the unauthorised disposals rate.
- 3.2. Section 95 of LDT Act requires the regulations varying the rates of landfill disposals tax to be (i) laid before the Senedd, and (ii) must be approved by the Senedd within 28 days of being made, not counting any period during which the Senedd is dissolved or in recess for more than 4 days. This is known as the “provisional” or “made” affirmative procedure.

### **4. Purpose and intended effect of the legislation**

#### *Summary*

- 4.1 The Regulations will increase the standard rate, lower rate and unauthorised disposals rate for landfill disposals tax which will apply to taxable disposals

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<sup>1</sup> <http://www.legislation.gov.uk/anaw/2017/3/contents/enacted>

made on or after 1 April 2025 in Wales. Taxable disposals made on or after 1 April 2024 but before 1 April 2025 will remain subject to rates set by The Landfill Disposals Tax (Tax Rates) (Amendment) and Tax Collection and Management (Wales) Act 2016 (Miscellaneous Amendments) (Wales) Regulations 2024.

#### *Policy aims and tax principles*

- 4.2 In developing landfill disposals tax for Wales, including the Regulations, the Welsh Government has applied its five principles for the development of devolved tax policy and legislation to:
- raise revenue to support public services as fairly as possible;
  - help deliver wider fiscal and policy objectives, including jobs and economic growth;
  - be simple, clear and stable;
  - engage with taxpayers and wider stakeholders;
  - contribute directly to the Well-being of Future Generations (Wales) Act 2015 goal of creating a more equal Wales.
- 4.3 Landfill Disposals Tax, including the Regulations, contributes towards wider green objectives and the national well-being goals, in particular through actions to promote a low carbon economy and develop a more resource efficient economy. This builds on Wales's success in recycling and reducing the environmental impacts of production and consumption.
- 4.4 The revenue from LDT will be used to directly fund public services in Wales<sup>2</sup>.

#### *Current position*

- 4.5 There are three rates of LDT; a lower rate for materials specified in the list of qualifying materials (and meeting certain requirements) and a standard rate for all other materials. There is also a separate unauthorised disposals rate which is applied to those materials which have been disposed of illegally at sites other than authorised landfill sites.
- 4.6 To date, LDT rates in Wales have matched those of the Landfill Tax (LFT) in England and Northern Ireland. This approach has reflected our position that rates should only diverge should Welsh circumstances and priorities require them to do so. The UK Government has, historically, set LFT rates in line with RPI forecast inflation at the Budget a year prior to the commencement date.
- 4.7 In March 2024, the UK Government announced the rates of LFT for 2025-26<sup>3</sup>. The UK Government significantly increased the rates by adjusting the Retail Prices Index (RPI) to account for high inflation in the period 2022 to 2024.
- 4.8 The Regulations propose to maintain the existing approach in relation to the standard rate of LDT, which will continue to align with the standard rate of LFT.

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<sup>2</sup> <http://gov.wales/funding/?lang=en>

<sup>3</sup> [Landfill Tax: increase in rates - GOV.UK](#)

- 4.9 Our approach to setting the rates in Wales has minimised the risk of waste tourism (cross-border movement of waste), provided stability and certainty for businesses in Wales, and has enabled LDT to continue to complement existing resource efficiency and circular economy policy initiatives.
- 4.10 Following the conclusion of the independent review of the LDT Act<sup>4</sup>, and a public consultation on the lower rate of LDT, the Regulations propose an increase to the lower rate above that for LfT.

*Purpose and intended effect of the regulations*

- 4.11 As part of the draft budget package in December 2024, the Cabinet Secretary for Finance and Welsh Language announced the LDT rates for 2025-26 will increase as follows:
- The standard rate will increase from **£103.70** per tonne to **£126.15** per tonne;
  - The lower rate will increase from **£3.30** per tonne to **£6.30** per tonne; and,
  - The unauthorised disposals rate (set at 150% of the standard rate) will increase from **£155.55** per tonne to **£189.25** per tonne.
- 4.12 The approach to setting tax rates has been guided by the tax principles and the objective to reduce landfill disposals in Wales, as required by section 91 of the LDTA 2017. Delivering stability and certainty for taxpayers and the wider waste industry has also been a key factor in setting the rates to date.
- 4.13 The decision to propose that the lower rate diverges from the rate set for LfT has been taken following a review of the effectiveness of the LDT Act and following a public consultation. The proposed lower rate is intended to further incentivise reduction, reuse and recycling of materials whilst balancing the need for stability and certainty for businesses, and in particular the waste industry, in Wales.
- 4.14 The proposal to continue aligning the standard rate of LDT with that of LfT provides ongoing stability and recognises that the standard rate continues to be an effective measure contributing to the reduction of waste landfilled in Wales. The unauthorised disposals rate is set higher than the standard rate (equivalent to 150% of the standard rate), creating an additional financial deterrent for people seeking to avoid their environmental obligations and dispose of waste illegally. Setting the rate higher than the standard rate takes account of the increased negative impact on the environment of unauthorised disposals of waste. The rate also recognises that administrative costs incurred by legitimate operators will have been avoided and better reflects the enforcement costs of the Welsh Revenue Authority (WRA).

## **5. Consultation**

- 5.1 There is no statutory duty to consult on the Regulations in relation to the tax rates. The proposed rates were announced by the Cabinet Secretary for

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<sup>4</sup> [Independent review: Land Disposals Tax \(Wales\) Act 2017 | GOV.WALES](#)

Finance and Welsh Language as part of the publication of the Welsh Government's draft budget on 10 December 2024. As with other tax administrations, the Welsh Government does not consult formally on tax rate changes as this remains a decision for Ministers.

- 5.2 A public consultation on the lower rate of LDT was carried out for a period of 8 weeks between 19 July 2024 and 15 September 2024. 21 responses were received to this consultation from a range of stakeholders and providing a range of views on the effectiveness of the lower rate.
- 5.3 The public consultation sought responses in relation to 3 options for adjusting the lower rate of LDT in Wales:
  - a. Removing the lower rate (in phases or in one amendment)
  - b. Substantially increasing the lower rate
  - c. Changing the materials to which the lower rate applies.

## PART 2 – REGULATORY IMPACT ASSESSMENT

### 6. Options

#### *Standard rate*

- 6.1 In relation to the standard rate of LDT, two options have been considered:
- Option 1a: maintain consistency with existing practice of uprating rate by forecast RPI
  - Option 1b: increase rates by 22% thereby aligning with the standard rate of LfT

#### *Option 1a: maintain existing practice of uprating by forecast RPI*

- 6.2 This option would increase the standard rate using inflation, as forecast by the Office for Budget Responsibility (OBR). It would introduce regulations that set the standard rate at £105.85, lower than the standard rate of LfT for 2025-26 (£126.15).
- 6.3 This option provides clarity for the waste industry in Wales though a divergence from the standard rate of LfT could be expected to have behavioural and revenue effects (see section 7) which would need careful consideration

#### *Option 1b: increase rates by 22% thereby aligning with the standard rate of LfT*

- 6.4 This option would help to maintain the cost of landfill relative to other waste disposals options. Over recent years, RPI has exceeded the forecast rates which were used to set LDT. This one-off increase ensures that the real cost of landfill has not declined.
- 6.5 This option would introduce regulations which are consistent with UK LfT standard rate, with the standard rate of LDT increasing in line with the UK Government adjusted measure of RPI.
- 6.6 This approach would maintain the stable approach to rate-setting which has been seen in previous years, recognising that the standard rate of LDT has been an effective contributor to the reduction, reuse and recycling of waste materials.
- 6.7 Aligning rates with England and Northern Ireland would also mean that the risk of waste tourism (cross-border movement of waste) in standard-rated wastes would not diverge, enabling LDT to continue to deliver against our commitment to incentivise diverting waste from landfill. In addition, increasing rates to catch up with RPI for 2025-26 will continue to complement existing resource efficiency and circular economy policy initiatives and allow them to work alongside each other to continue to incentivise behaviour change and drive forward the Welsh Government's environmental goals.

### *Lower rate*

- 6.8 In relation to the lower rate of LDT, four options have been considered:
- Option 2a: maintain consistency with existing practice of uprating rate by forecast RPI
  - Option 2b: increase rates by 22% thereby aligning with the lower rate of LfT
  - Option 2c: increase the rate to 5% (£6.30 per tonne) of the standard rate
  - Option 2d: abolish the lower rate and apply the standard rate to all waste

#### *Option 2a: maintain consistency with existing practice of uprating rate by forecast RPI*

- 6.9 This option would introduce regulations that set the lower rate in line with RPI as forecast by the OBR. This would be at a lower amount than the lower rate of LfT for 2025-26 and represents a divergence from rates in the rest of the UK.
- 6.10 This option provides clarity for the waste industry in Wales. A divergence from the lower rate of LfT could be expected to have very limited behavioural and revenue effects (see section 7).

#### *Option 2b: increase rates by 22% thereby aligning with the lower rate of LfT*

- 6.11 This option would help to maintain the cost of landfill relative to other waste disposals options. Over recent years, RPI has exceeded the forecast rates which were used to set LDT. This one-off increase ensures that the real cost of landfill has not declined.
- 6.12 This option would introduce regulations which are consistent with UK LfT lower rate, with the lower rate of LDT increasing in line with the UK Government adjusted measure of RPI.
- 6.13 This approach would maintain the stable approach to rate-setting which has been seen in previous years, however, does not fully recognise that the lower rate of LDT has not been an effective contributor to the reduction, reuse and recycling of waste materials.
- 6.14 Aligning rates with the rest of the UK would also mean that the risk of waste tourism (cross-border movement of waste) in lower-rated wastes would not change.

#### *Option 2c: increase the rate to 5% (£6.30 per tonne) of the standard rate*

- 6.15 This option reflects an increase in the cost of landfilling lower-rated materials compared to other waste disposals materials. It also reflects that the lower rate has not been an effective contributor to the reduction, reuse and recycling of some lower-rated materials and that an increase in the cost of landfill may increase its contribution to those goals.

6.16 In addition, this approach to the lower rate of LDT 2025-26 seeks to complement existing resource efficiency and circular economy policy initiatives and allow them to work alongside each other to continue to incentivise behaviour change and drive forward the Welsh Government's environmental goals.

*Option 2d: abolish the lower rate and apply the standard rate to all waste*

6.17 This option would reflect the most extensive change to landfill taxes since LfT's introduction in 1996.

6.18 Abolishing the lower rate would result in all waste disposed of to landfill sites being subject to the standard rate of LDT. This would have significant effects of currently lower-rated waste going to landfill (see section 7).

6.19 Impacts would include a significant change in waste tourism and waste criminality, in addition to the intended impact of pushing some waste up the waste hierarchy.

## **7. Costs and benefits**

7.1 The costs and benefits associated with each option have been produced using the best available information at the time, including evidence from the consultation on the lower rate<sup>5</sup>.

7.2 There is considerable uncertainty around the costs and benefits, particularly for options where rates do not align with the rest of the UK. This is because to date, there has been no divergence in rates, so there is little evidence on which to evaluate these options.

7.3 The costings relating to LDT are based on policy costings produced alongside the draft budget and certified by the OBR<sup>6</sup>.

### Standard Rate

*Option 1a: maintain existing practice of uprating by forecast RPI*

7.4 This option would represent the standard policy to increasing rates and therefore costs and benefits for waste producers in Wales would be in line with previous years.

7.5 However, as rates in the rest of the UK are increasing by 22% there would be a divergence of rates from the rest of the UK. This means that it would be comparatively cheaper to landfill standard rate waste in Wales (a saving of £20.30 per tonne in tax compared to rates in the rest of the UK).

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<sup>5</sup> [Lower rate of Landfill Disposals Tax | GOV.WALES](#)

<sup>6</sup> [Welsh taxes outlook – December 2024 - Office for Budget Responsibility](#)

7.6 A likely consequence would be an increase in waste travelling across the border to benefit from the lower rates. The impact of this has been analysed by calculating the reduction in tonnes in England and estimating the proportion likely to cross the border into Wales. This is estimated to result in 13,000 tonnes of additional waste in Welsh landfill sites. This is likely to lead to the following costs and benefits:

- Additional revenues for landfill site operators in Wales. Given the estimated additional tonnes, and the average UK gate fee (£24<sup>7</sup> per tonne) this may amount to around £0.3m in total.
- Environmental costs as a result of transporting the waste and the additional waste landfilled in Wales. This is unquantifiable.
- The total standard rate tax under this option is forecast to be £28.9m in 2025-26. This includes additional tax revenues of £1.3m as a result of waste travelling across the border.

7.7 In addition, as the tax rates would not have kept up with inflation, the cost of landfill relative to alternative waste disposal or re-use options would have reduced. This may result in lower environmental benefits and lower revenues for businesses offering alternative waste treatment.

*Option 1b: increase rates by 22% thereby aligning with the standard rate of LfT*

7.8 This option would increase costs for waste producers as rates are re-aligned with inflation. As rates would match those in the rest of the UK, there is no anticipated response with regard to waste crossing the border.

7.9 The increase in rates is likely to lead to:

- A small reduction in revenues for landfill site operators in Wales, however as waste is relatively price inelastic over the short term, there is unlikely to be a significant change.
- Small environmental benefits as some waste is diverted away from landfill to alternative treatment methods.
- Additional risk of fly tipping and unauthorised disposals to avoid the higher tax. This would result in additional clear up costs for local authorities and Natural Resources Wales.
- Additional tax revenues for the Welsh Government estimated to amount to £0.8m in 2025-26, in total £29.8m revenues from standard rate waste (relative to increasing in line with RPI, slight difference due to rounding). This would represent a transfer from waste producers in England and Wales to the Welsh Government.

*Lower rate*

*Option 2a: maintain consistency with existing practice of uprating rate by forecast RPI*

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<sup>7</sup> [UK Gate Fees report 2023-24 | WRAP](#)

- 7.10 As with option 1a, this option would be in line with previous years and therefore costs and benefits for waste producers in Wales would be similar to those experienced in the past.
- 7.11 However, as rates in the rest of the UK are increasing by 22% there would be a divergence of rates, albeit of on a smaller scale than for standard rate. Rates in Wales would be £0.70 cheaper per tonne than in the rest of the UK. This may result in a small increase in waste close to the border being landfilled in Wales.
- 7.12 Lower rate waste is more price inelastic than standard rate waste. This, coupled with the small divergence in rates means that there is unlikely to be a significant change to costs or benefits under this option.

*Option 2b: increase rates by 22% thereby aligning with the standard rate of LFT*

- 7.13 As with option 1b, this option would mean no divergence in rates from the rest of the UK. As this option restores the real value of the tax, and because lower rate waste is highly price inelastic there is unlikely to be a significant change in costs or benefits.
- 7.14 The modelled impact on LDT revenues in 2025-26 is an increase of £0.3m (relative to option 2a) under this option. This would represent a transfer from waste producers to the Welsh Government.

*Option 2c: increase the rate to 5% (£6.30 per tonne) of the standard rate*

- 7.15 An increase to £6.30 per tonne would represent a significant (88%) increase in the lower rate. Despite the fact that lower rate waste is not particularly responsive to changes in price, a change of this size is anticipated to have behavioural implications.
- 7.16 This policy would be coupled with communication that the aim is to incentivise alternative waste treatment options and if a corresponding reduction in lower rate waste is not achieved then the lower rate may increase to a higher value in future years.
- 7.17 Responses to the consultation<sup>8</sup> suggest that for some lower rate waste types there are currently viable alternatives, whereas for others this is not the case. This means that response to the change would impact some waste types more than others.
- 7.18 The impact of this increase is anticipated to be:
- An estimated 110,000 tonne reduction in waste landfilled. Some of this waste will cross the border into England, whilst some will be shifted to the

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<sup>8</sup> [Lower rate of Landfill Disposals Tax: summary of responses \[HTML\] | GOV.WALES](#)

- waste hierarchy and be disposed of in an alternative manner/reused. Some waste may also be disposed of illegally through fly tipping.
- An increase in LDT revenues in 2025-26 of £1m as the additional revenue from the higher tax rate is expected to more than offset the impact of the reduction in waste landfilled. The increase in revenue represents a transfer from waste producers to the Welsh Government. There may also be a small increase in UK Landfill Tax as a result of waste shifting to English landfill sites.
  - A reduction in revenues for Welsh landfill sites as result of lower levels of disposals.
  - An increase in use of, and investment in, alternative waste disposal/re-use systems leading to a reduction in environmental costs.

*Option 2d: abolish the lower rate and apply the standard rate to all waste*

7.19 This option would remove the lower rate in a single amendment and would be likely to have a significant cost to some businesses. A change of this size would be unprecedented so there is a great deal of uncertainty around the impact on all areas.

7.20 Consultation<sup>9</sup> responses suggested the following unquantifiable costs:

- A reduction in landfill site revenues and increased costs for waste producers (such as construction companies). This may impact on the economic viability of businesses in the sector and therefore also impact on employment on a small scale.
- In addition, there may be increased costs to development companies due to delays to brownfield site development, additional costs to landfill sites due to increases in costs of cover material.

7.21 The removal of the lower rate may reduce the need for virgin aggregates so could result in lower revenues for this sector and lower transfers to the government in aggregates levy.

7.22 However, this option is likely to encourage development in the alternative treatment sector as the certainty it provides would enable confident investment. The costs and benefits to this sector are unquantifiable.

7.23 There is likely to also be significant waste tourism, particularly in the short term. The divergence in rates between Wales and the rest of the UK would be significant and would mean the cost of transporting waste would be lower than the divergence in rates for many landfill sites in Wales. This would result in lower revenues for landfill sites in Wales but higher revenues in England and Northern Ireland. The impact on landfill disposals tax revenues in Wales is likely to be positive in the short term, but due to the large size of the tax change there is a great deal of uncertainty around this.

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<sup>9</sup> [Lower rate of Landfill Disposals Tax: summary of responses \[HTML\] | GOV.WALES](#)

7.24 The net impact on the environment is difficult to estimate. In the short term the impact is likely to be negative with increased costs as a result of waste travelling further to benefit from lower rates in England and an increase in fly tipping. However, in the longer term environmental benefits are likely to outweigh costs as alternative waste treatment/uses develop and lower rate waste replaces an increasing proportion of virgin aggregates.

## **8. Summary of preferred option**

- 8.1 The preferred option would be Option 1b for the standard rate, and Option 2c for the lower rate.
- 8.2 Raising the standard rate to £126.15 restores the real value of the tax and ensures the standard rate acts as a disincentive to landfilling. It also aligns with the rest of the UK and ensures minimal waste tourism. This option provides additional tax revenues to the Welsh Government estimated to amount to £0.8m in 2025-26 compared with increasing the rate in line with forecast inflation.
- 8.3 Raising the lower rate to £6.30 represents a significant increase, and despite the fact that the lower rate is relatively price inelastic, is likely to reduce the amount of lower rate waste going to landfill. This option increase revenues in 2025-26 by £1m as the additional revenue from the higher tax rate is expected to more than offset the impact of the reduction in waste landfilled.
- 8.4 In total the impact of both rate changes is forecast to reduce the amount of waste going to landfill, but increase revenues in 2025-26 by £1.8m compared to increasing both rates in line with forecast inflation.

## **9. Competition Assessment**

- 9.1 See Appendix A.
- 9.2 At present there are 17 landfill site operators<sup>10</sup> covering 20 sites in the market.
- 9.3 The Regulations are not expected to significantly adversely affect levels of competition in Wales or the competitiveness of Welsh firms, as a percentage uplift in rates will apply to all Welsh operators.
- 9.4 The difference between the lower rate of LDT and other landfill taxes in the UK will result in a relative reduction in revenues for Welsh landfill sites and is an intended consequence of the decision to increase the lower rate to better contribute to the Welsh Government's environmental goals.

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<sup>10</sup> <https://beta.gov.wales/welsh-revenue-authority-list-landfill-site-operators>

## **10. Post implementation review**

10.1 The effect of the LDTA 2017 and the Regulations will be assessed through the data collected as part of LDT tax returns. These will provide an evidence base from which evaluation of a number of Welsh Government policies can be undertaken. The data will include information on LDT revenue and the tax base directly, for example, the tonnage of standard and lower rate materials sent to landfill in Wales and the amount of tax raised at the unauthorised disposals tax rate.

## APPENDIX A

### The Competition Assessment

There are two stages to the Competition Assessment. The first is a quick filter that assesses whether there is a risk of a significant detrimental effect on competition. The results of the competition filter are presented in the table below:

The competition filter test for landfill site operators	
Question	Answer yes or no
Q1: In the market(s) affected by the new regulation, does any firm have more than 10% market share?	Yes
Q2: In the market(s) affected by the new regulation, does any firm have more than 20% market share?	Yes
Q3: In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	Yes
Q4: Would the costs of the regulation affect some firms substantially more than others?	No
Q5: Is the regulation likely to affect the market structure, changing the number or size of businesses/organisation?	No
Q6: Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q7: Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
Q8: Is the sector characterised by rapid technological change?	No
Q9: Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No