

Explanatory Memorandum to The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2021

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

Minister'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 2021 and I am satisfied that the benefits justify the likely costs.

Rebecca Evans MS
Minister for Finance and Local Government
Y Gweinidog Cyllid a Llywodraeth Leol

22 December 2021

PART 1 – EXPLANATORY MEMORANDUM

1. Description

- 1.1 The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2021 (“the regulations”) are being made under the Landfill Disposals Tax (Wales) Act 2017 (“LDT Act”)¹. 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 2022 in Wales. Taxable disposals made on or after 1 April 2021 but before 1 April 2022 will remain subject to rates set by The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) (No.2) Regulations 2020 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 2022.

2. Matters of special interest to the Legislation, Justice and Constitution Committee (LJCC)

- 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;
 - 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 laid, 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.

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

4. Purpose and intended effect of the regulation

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 made on or after 1 April 2022 in Wales. Taxable disposals made on or after 1 April 2021 but before 1 April 2022 will remain subject to rates set by The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) (No.2) Regulations 2020.

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 The Welsh Government Programme for Government 2021-26² sets out a commitment to embed our response to the climate and nature emergency in everything we do, and includes a specific commitment to abolish the use of more commonly littered, single use plastics.

4.4 In October 2021, the Welsh Government published its Net Zero Wales Carbon Budget 2021-25³ following the latest IPCC report. It focuses on our second carbon budget (2021-2025) and looks beyond to start building the foundations for Carbon Budget 3 and our 2030 target, as well as net zero by 2050.

4.5 Section 91 of the LDT Act places a duty on the Welsh Ministers to have regard, amongst other factors, to the objective of reducing landfill disposals in Wales when exercising their powers and duties under the LDT Act. In developing the Regulations, consideration has been given to how the rates support the objective of reducing waste to landfill and the Welsh Government's ambitions for a zero waste Wales.

² Welsh Government Programme for Government 2021-26: <https://gov.wales/programme-government>

³ Net Zero Wales Carbon Budget 2021-25: [Net Zero Wales | GOV.WALES](https://gov.wales/net-zero-wales)

- 4.6 The Welsh Government published *Beyond Recycling – A strategy to make the circular economy in Wales*⁴ a reality in March 2021. The strategy affirms the commitment to shift to a more circular economy where resources are kept in use and waste avoided. This is an important part of our transition to a zero waste, net zero carbon economy. Our Programme for Government and Net Zero Wales plan also emphasise the importance of the principles of a circular economy as a key component of reducing emissions and waste - a key strategic aim is to reduce the amount of materials sent to landfill and incineration.
- 4.7 Other planned actions include phasing out single use plastic and in doing this, making Wales among the first countries to send zero plastic to landfill. The Strategy includes commitments to other environmental policies and reforms such as introducing Extended Producer Responsibility for packaging, a Deposit Return Scheme for drinks containers, and working to apply bans or restrictions to phase out the use of unnecessary, highly littered, single use plastic.
- 4.8 At Budget 2018, the UK Government announced that from April 2022, it will introduce a plastic packaging tax⁵. The tax will encourage the use of recycled rather than new plastic within plastic packaging. It will create greater demand for recycled plastic, and in turn stimulate increased levels of recycling and collection of plastic waste, diverting it away from landfill or incineration. Although implementation of this tax is being led by HMRC, we will continue to contribute to this work and ensure stakeholders in Wales are engaged. The tax is on track to become effective from April 2022.
- 4.9 New resource efficiency and circular economy legislation mandating recycling in non-domestic premises in Wales is being developed - the primary aim of which is to increase high quality recycling and collect valuable resources from non-domestic premises such as businesses and the public sector in Wales.
- 4.10 The introduction of landfill disposals tax legislation, including these Regulations, contributes towards these 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' success in recycling and reducing the environmental impacts of production and consumption.
- 4.11 In order to provide stability, the approach taken to date in setting the rates has been that the devolved tax rates should only diverge from those of the predecessor tax rates as much as is necessary to reflect Welsh circumstances and priorities.
- 4.12 The revenue from landfill disposals tax will be used to directly fund public services in Wales, replacing an element of the funding the Welsh Government receives from the UK Government⁶. The principle that there should be no less revenue available to fund public services has also been applied.

⁴ <https://gov.wales/beyond-recycling-0>

⁵ <https://www.gov.uk/government/publications/introduction-of-plastic-packaging-tax/plastic-packaging-tax>

⁶ <http://gov.wales/funding/?lang=en>

Current position

- 4.13 There are two rates of UK landfill tax; a lower rate for materials specified in the list of qualifying materials (and meeting certain requirements) and a standard rate for all other materials. The UK government does not have a separate rate for unauthorised disposals - the standard rate applies to all disposals made at an unauthorised sites. The standard rate has increased over time to incentivise diversion of waste from landfill towards prevention, re-use, recycling and recovery⁷.
- 4.14 Since 2014, the UK government's approach has been to maintain the standard and lower tax rates in real terms (by the rate of inflation as measured by the Retail Price Index (RPI)). In its 2021 Spring Budget, the UK government announced it would legislate in the Finance Bill 2021 to 2022 to increase the standard and lower rates of LfT in line with RPI, rounded to the nearest 5 pence. The change will have effect on and after 1 April 2022⁸.
- 4.15 To date, landfill disposals tax rates have matched UK landfill tax rates, delivering a commitment made by the First Minister in his previous position as Cabinet Secretary for Finance to match landfill tax rates for the three years following landfill disposals tax, going live in 2018 (2018-19, 2019-20, and 2020-21). The landfill disposals tax rates for 2021-22 continued that approach and were set to match UK landfill tax rates and approved by the Senedd in January 2021.

Purpose and intended effect of the regulation

- 4.16 As part of the draft budget package in December 2021, the Minister for Finance and Local Government announced the landfill disposals tax rates for 2022-23 will increase as follows:
- i. The standard rate will increase from £96.70 per tonne to **£98.60** per tonne;
 - ii. The lower rate will increase from £3.10 per tonne to **£3.15** per tonne; and
 - iii. The unauthorised rate would increase from £145.05 per tonne to **£147.90** per tonne.
- 4.17 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 LDT Act. Delivering stability and certainty for taxpayers and the wider waste industry has also been a key factor in setting the rates to date. The approach has been for tax rates to only diverge from those of the predecessor tax rates as much as is necessary to reflect Welsh circumstances and priorities and the principle

⁷ Since the introduction of UK landfill tax in 1996, the standard rate has risen from £7 to £21 per tonne in 2006, then to £72 in 2013 and £94.15 in 2020. In contrast, the lower rate has risen from £2 per tonne in 1996 to £2.50 in 2013 and £3 in 2020.

⁸ [Budget 2021: Overview of tax legislation and rates \(OOTLAR\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/budget-2021-overview-of-tax-legislation-and-rates)

there should be no less revenue available to fund public services has also been applied.

4.18 On this basis, the proposed standard and lower rates of landfill disposal tax are consistent with UK landfill tax rates to provide stability and certainty to those stakeholders impacted by the tax. The unauthorised disposals rate, is set higher than the standard rate (standard rate + 150%), 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).

UK Government Landfill Tax (Lft)

4.19 At the 2021 UK Spring Budget, the UK government announced a Landfill Tax review as part of a range of tax policy and consultation announcements. The Welsh Government have inputted initial views on how we can work closely to support shared environmental and waste management objectives, and mitigate undesirable outcomes such as waste tourism. There is recognition that common issues across Lft and LDT may be better addressed through collective action to minimise unintended consequences. The UK government has now launched a call for evidence⁹ focused on how Landfill Tax can continue to support environmental objectives, including achieving zero avoidable waste by 2050. We will continue to discuss any potential legislative changes and contribute to this call for evidence.

5. Consultation

5.1 There is a no statutory duty to consult on these Regulations and the proposed rates were announced by the Minister for Finance and Local Government as part of the publication of the Welsh Government's draft budget on 20 December 2021. As with other tax administrations, the Welsh Government does not consult formally on tax rate changes as this remains a decision for Ministers.

⁹ [Landfill Tax Review: call for evidence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/landfill-tax-review-call-for-evidence)

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Impact of The Landfill Disposals Tax (Tax Rates) (Wales) (Amendment) Regulations 2021

Options

6.1 In relation to setting the **lower and standard rates**, two options have been considered; to:

- Option 1a) - be consistent with UK landfill tax rates
- Option 1b) - set ‘Welsh specific’ rates which are different from the UK rates

6.2 In relation to the **unauthorised disposals rate**, two options have been considered; to:

- Option 2a) - maintain the unauthorised disposals rate at 150% of the new proposed standard rate
- Option 2b) - change the unauthorised disposals rate as a different % of the new proposed standard rate

6.3 A brief description of each option and their anticipated impact is outlined below followed by an analysis of the costs and benefits at section 7.

Lower and standard rates

Option 1a): be consistent with UK landfill tax rates

6.4 This option would introduce regulations which are consistent with UK landfill tax rates, with the standard and lower rate of landfill disposals tax increasing in line with inflation (as measured by the Retail Price Index, RPI) in April 2022.

6.5 On introducing landfill disposals tax, a clear message from stakeholders was the need for consistency, certainty and stability for businesses. Replicating the UK landfill tax rates could achieve this. Industry experts have also consistently highlighted concerns about waste tourism across the England-Wales border and a consistent rate with the UK landfill tax would address this possible risk.

6.6 Furthermore, stability over rates may benefit businesses given the current economic uncertainty generated by the pandemic and the UK's departure from the European Union.

Option 1b): set 'Welsh specific' rates which are different from the UK rates

6.7 This option would introduce regulations that set the standard and/or lower rates specific to Wales at different rates from the UK rates. In one direction, this could help to support Welsh Government priorities and policies, including the ambitious goal of zero waste by encouraging greater recycling, recovery and re-use of waste and efforts to reduce carbon emissions and tackle climate change. An alternative approach could increase or decrease the revenue to invest in public services in Wales.

6.8 There are a range of options that could be considered. Any changes to tax rates can be expected to have behavioural and revenue effects (see section 7) which would need careful consideration

Unauthorised disposals rate

Option 2a): maintain the unauthorised disposals rate at 150% of the new proposed standard rate

6.9 This option would maintain the unauthorised disposals rate at 150% of the new proposed standard rate of tax. This would ensure that those disposing of waste illegally pay a greater amount of tax compared to the amount they would have paid if they had taken it to an authorised landfill site.

6.10 As there is a proposal to increase the standard rate in line with inflation, this will therefore increase the unauthorised disposals rate from £145.05 to £147.90.

Option 2b): change the unauthorised disposals rate as a % of the new proposed standard rate

6.11 The unauthorised disposals rate is intended to create another deterrent for those seeking to avoid landfill disposals tax and their environmental duties by disposing of waste illegally. The WRA is about to launch the first live test of its powers to charge tax on unauthorised disposals of waste. This is the next stage in a careful process to set up arrangements for the WRA's role and approach in this area to begin to support existing environmental powers to tackle waste crime.

6.12 As the WRA continues to develop its approach, we do not yet have evidence to suggest varying the unauthorised disposals rate would lead to a further behavioural change. Once more data is available and the WRA has

operationalised the regime, we can begin to assess more robustly other aspects such as whether the rate for unauthorised disposals is at an optimum level.

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.
- 7.2 The preferred option is for the Welsh Government to be consistent with UK landfill tax for the standard and lower rate (option 1a) and to maintain the unauthorised disposals rate at 150% of the new proposed standard rate (option 2a).
- 7.3 The WRA works closely with Natural Resources Wales (NRW) when carrying out compliance and enforcement functions (including tackling unauthorised disposals). This relationship provides WRA with environmental expertise as NRW have extensive knowledge of the waste industry. Compliance activity will be undertaken on a risk basis as is currently the case with UK landfill tax.

Lower and standard rate

Option 1a): be consistent with UK landfill rates

- 7.4 A key priority for the Welsh Government was a smooth transition to landfill disposals tax in 2018-19. Any changes to tax rates can be expected to have behavioural effects.
- 7.5 A reduction in landfill disposals tax rates may encourage greater landfill disposals in Wales, which is not consistent with the Welsh Government's wider waste policy agenda. An increase in waste being disposed of in Wales would also have wellbeing and environmental impacts for communities. For example, it would:
- Increase waste, including potentially hazardous waste, travelling further distances on major roads and through residential areas;
 - Increase disruption for residents near landfill sites and waste transfer stations;
 - Increase the carbon footprint of waste disposal;
 - Increase pressure on existing landfill capacity, with potential calls for new landfill sites to be developed.
- 7.6 Conversely, an increase in landfill disposals tax rates may encourage less waste to be disposed of to landfill in Wales than if landfill tax were to continue to apply, reducing the amount of revenue collected. This is inconsistent with our principle that there should be no less revenue available to fund public services.

Further, an increase in landfill disposals tax rates may encourage unauthorised waste disposals in Wales.

- 7.7 Stakeholders have suggested that the standard rate has reached its optimum level where landfilling these materials is the most expensive, and therefore least attractive, means of waste disposal. Furthermore, adjusting the rates in line with inflation each year has created a big gap between where the lower and standard rates sit. If the rates are consistently raised in line with inflation, this could continue to grow the gap between the standard rate and lower rate, creating a higher tax gap, driving potentially more mis-descriptions (e.g. where companies mis-describe the waste to avoid higher rates of tax). When UK landfill tax was first introduced, the difference between the lower and standard rates was much smaller¹⁰.
- 7.8 Some stakeholders have also made the case for increasing the lower rate to encourage greater recycling, re-use and recovery of these materials but the majority wanted consistency with UK rates to minimise the risk of waste tourism, including, at least initially, for the lower rate.
- 7.9 However, there is currently heightened uncertainty around the longer term outlook for waste. This is both as a result of behavioural change following Covid-19 and as a result of Brexit. In addition, the Welsh Government will be introducing Business Recycling Regulations which will have an impact on waste which is sent to landfill. Given this uncertainty and state of flux in the waste sector, this is not the right time to consider deviating from UK rates.
- 7.10 The Welsh Government is commissioning an independent review of landfill disposals tax (see paragraph 9.1) which will conclude by September 2023. Any findings from this review will inform future policy development.
- 7.11 By setting rates that are consistent with UK landfill tax, public services in Wales will continue to benefit from tax revenue, while ensuring the risk of the movement of waste across borders is reduced. Furthermore, stability over rates may benefit businesses given the current economic uncertainty generated by the pandemic as well as the uncertainty on the longer term impact.

Costs

- 7.12 Under this option, the lower and standard landfill disposals tax rates would increase in line with inflation as measured by RPI. This means the standard

¹⁰ Since the introduction of Landfill Tax in 1996, the standard rate has risen from £7 per tonne to £21 per tonne in 2006, then to £72 per tonne in 2013 and £94.15 per tonne in 2020. In contrast, the lower rate has risen from £2 per tonne in 1996 to £2.50 per tonne in 2013 and £3 per tonne in 2020.

rate of landfill disposals tax would be £98.60 per tonne and the lower rate would be £3.15 per tonne in 2022-23.

7.13 As the proposed tax rates are consistent with the UK landfill tax, there is not expected to be any significant change in the amount of waste landfilled compared with the rest of the UK. Table 1 shows that overall revenue generated from landfill disposals tax in 2021-22 and 2022-23 is forecast to be £45m and £36m respectively.

7.14 Despite the increase in tax rates, revenue is expected to fall slightly over the forecast period as an increasing amount of waste is diverted away from landfill. The forecasts in Table 1 do not include the tax revenue from any unauthorised disposals.

Table 1: Landfill disposals tax revenues forecast (£ million)

	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
LDT revenue (£m)	32	45	36	36	36	35	35

Source – OBR Welsh Taxes Outlook December 2021 forecast

7.15 Further, as this option is to be consistent with UK landfill tax, there will not be any changes that incur an additional cost to landfill site operators, waste businesses or WRA.

Option 1b): set ‘Welsh specific’ rates which are different from the UK rates

7.16 Wales is at the forefront of waste policy and landfill disposals tax is a useful additional lever to support Welsh Government waste policies and achieve our ambitious goal of a zero waste Wales.

7.17 This option has the potential to increase the incentive to separate and sort waste for disposal in order to secure the lower rate of tax which can have added benefits of enabling more waste to be recovered, re-used and recycled and reduce the amount of waste going to landfill.

7.18 However, if the rates vary from UK rates, there is the possibility we will see some waste tourism – this was previously discussed in the Landfill Disposals Tax Bill Explanatory Memorandum and Regulatory Impact Assessment¹¹. Before landfill tax was devolved to Scotland, a study was undertaken to understand the policy options for a Scottish specific landfill tax and this also discussed the potential for waste tourism¹². Given that the landfill disposals tax rates have yet to be differentiated between the UK landfill tax rates, it is difficult to predict behaviour and would depend on the rate change. For example, even

¹¹ <https://senedd.wales/laid%20documents/pri-ld10839-em-r/pri-ld10839-em-r-e.pdf>

¹² <https://www.zerowastescotland.org.uk/sites/default/files/Scottish%20Landfill%20Tax%20Study%20Report.pdf>

though there are examples of English waste being transported to Wales, there is no difference in the rates at present so it could be determined that this is not driving behaviour. The factors that could influence waste tourism would need to be carefully considered.

- 7.19 For example, an increase in landfill disposals tax rates may encourage less waste to be disposed of to landfill in Wales, reducing the amount of revenue collected. This approach may also increase levels of waste tourism from Wales to England. However, evidence suggests that a marginal difference in rates could be tolerated by the market without waste tourism in particular becoming a concern.
- 7.20 More detailed research is needed to establish the scale of the impact setting different rates to the UK would have on waste tourism, unauthorised disposals, the rate of recycling and reuse and tax revenues.

Option 2a): maintain the unauthorised disposals rate at 150% of the new proposed standard rate

- 7.21 Maintaining the unauthorised disposal rate at the 150% of the new proposed standard rate ensures a level of fairness, proportionality, and transparency. Setting the rate at this level acts as an additional deterrent for those seeking to avoid landfill disposals tax and their environmental duties by disposing of waste illegally. It also recognises the increased negative impact on the environment of unauthorised disposals of waste and that in normal circumstances registered landfill site operators incur administrative costs relating to registration, filing, paying and record-keeping and these would have been avoided along with penalties and interest, which would have been applied to a registered landfill site operator for failure to do these. Setting the rate at 150% of the new proposed standard rate keeps it in line with the standard rate increase which is in line with the retail price index and therefore helps to create a level playing field for legitimate waste businesses.
- 7.22 Consistent with the purpose of the tax as a lever to influence positive environmental behaviours this approach seeks to encourage individuals to make efforts to take up sustainable methods of waste disposal or, as a minimum, to take waste to a registered landfill site and pay a fair share of tax and thus protect revenue for investment in public services in Wales. Our approach further aims to bring benefit to the communities who are affected by unauthorised disposals by seeking to deter this activity in future.

Costs

- 7.23 The introduction of a separate tax rate for unauthorised disposals came into force in Wales on 1 April 2018 and was aimed primarily at deterring unauthorised disposals rather than raising tax revenue. The WRA are responsible for determining the level of compliance and enforcement activity it undertakes in relation to unauthorised disposals. It is expected that its

approach will be proportionate and cost-effective and be considered in the context of the wider initiatives being taking forward by the Welsh Government, NRW and local authorities to ensure that those dumping waste bear the cost of their actions.

7.24 An industry report in 2015¹³ highlighted that every £1 spent on waste crime enforcement is expected to return between £3.60 and £5.60 to government. This clearly makes the enforcement of these powers a valuable tool and one which could be a worthwhile investment in the long term.

7.25 Tax collected from unauthorised disposals will support the delivery of public services in Wales, with some revenue allocated to NRW and local authorities where they have been instrumental in assisting the investigation and pursuit of tax and to incentivise future action.

Option 2b): change the unauthorised disposals rate as a % of the new proposed standard rate

7.26 As set out at paragraph 6.11-6.12, there is no evidence available currently to suggest whether the rate should increase or decrease. The WRA is about to launch the first live test of its powers to charge tax on unauthorised disposals of waste. This is the next stage in a careful process to set up arrangements for the WRA's role and approach in this area to begin to support existing environmental powers to tackle waste crime. Once more data is available and the WRA has operationalised the regime, we can begin to assess more robustly other aspects such as whether the rate for unauthorised disposals is at an optimum level.

Summary of the preferred option

7.27 There remains heightened uncertainty around the longer term outlook for waste. This is both as a result of behavioural change following Covid-19 and as a result of Brexit. In addition, the Welsh Government will be introducing Non-Domestic Premises Recycling Regulations which will have an impact on waste which is sent to landfill. Given this uncertainty and state of flux in the waste sector, this is not the right time to consider deviating from UK rates.

7.28 The preferred option is for the Welsh Government to be consistent with the options used to set the rates in 2022-23 being the same as the UK landfill tax for the lower and standard rate (option 1a) and to maintain the unauthorised disposals rate at 150% of the new proposed standard rate (option 2a).

¹³[ESAET Waste Crime Tackling Britains Dirty Secret LIVE.pdf \(esauk.org\)](#)

- 7.29 The key benefit is to provide certainty and stability for the waste industry, by broadly enabling consistency with how landfilled waste is charged in England and Wales and the risk of cross border movement of waste is reduced. It also ensures that the benefit of the tax revenue can continue to be secured for investment in public services in Wales.
- 7.30 The standard rate in particular is widely considered by stakeholders to be set at a level which reflects its environmental cost and promotes a more sustainable approach to waste management. This will help deliver wider benefits including supporting the delivery of the Welsh Government's wider waste and environment policies. In particular, continuing to enable the development of the "Beyond Recycling – Making the Circular Economy a Reality in Wales" Strategy and helping to deliver the goals set out in the Environment (Wales) Act 2016¹⁴ and the *Climate Change Strategy for Wales*¹⁵.
- 7.31 The unauthorised disposals rate seeks to support our policy ambition to deter unauthorised disposals which blight our communities. It will ensure the increased negative impact of unauthorised disposals is recognised, and will support the creation of a level playing field for legitimate operators. It is hoped the proposed rates will encourage illegal operators to manage their waste more sustainably and as a minimum take it to an authorised landfill site and pay a fair share of tax which supports public services in Wales.

8 Competition assessment

- 8.1 See **Appendix A**
- 8.2 At present there are 17 landfill site operators¹⁶ covering 20 sites in the market.
- 8.3 These Regulations are not expected to adversely affect levels of competition in Wales or the competitiveness of Welsh firms, as a percentage uplift in rates will affect every operator similarly in percentage terms.

9 Post implementation review

- 9.1 The effect of the LDT Act and these Regulations will be assessed in a number of ways, including:
- The Welsh Government has committed to commissioning an independent review of the LDT Act and regulations will be completed

¹⁴ <https://gov.wales/environment-wales-act-2016-factsheets>

¹⁵ <https://gov.wales/sites/default/files/publications/2019-04/climate-change-research-emission-reduction-scenarios.pdf>

¹⁶ <https://beta.gov.wales/welsh-revenue-authority-list-landfill-site-operators>

within six years of the LDT Act receiving Royal Assent (more information below at para 9.2-3);

- Data will be collected as part of landfill disposals tax returns and 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 landfill disposals tax revenue and the tax base directly, for example, the tonnage of standard and lower rate materials sent to landfill in Wales or the amount of tax raised at the unauthorised disposals tax rate.
- A programme of monitoring activity will be developed to correspond with key activities including enforcement activity on unauthorised disposals.

Independent Review of Landfill Disposal Tax legislation in 2023

- 9.2 The purpose of the independent review is to evaluate the effectiveness of the tax. Work is proceeding on the scope and coverage of the Review. It is due to be completed by September 2023 in order to be completed within six years of the Landfill Disposals Tax (Wales) Act receiving Royal Assent.
- 9.3 Any possible changes to LDT recommended by the review will inform future tax policy development

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	No

