

Draft Regulations laid before Senedd Cymru under section 79(2)(c) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, for approval by resolution of Senedd Cymru.

DRAFT WELSH STATUTORY
INSTRUMENTS

2024 No. (W.)

**LAND TRANSACTION TAX,
WALES**

The Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend Schedule 5 of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“the LTT Act”) to extend the 3 year replacement of main residence exception and refund period for higher rates residential property transactions provided by paragraphs 8 and 17 if the relevant circumstances are met.

Regulation 3 modifies Part 2 of Schedule 5 where the buyer is an individual and involved in single dwelling transactions.

Regulation 4 amends Part 3 of Schedule 5 where the buyer is an individual and involved in multiple dwelling transactions.

Regulation 5 makes consequential amendments to paragraph 23 of Schedule 5 in respect of the extension of time limits in section 78 of the Tax Collection and Management (Wales) Act 2016 for which claims can be made.

Regulation 6 amends paragraph 35 of Schedule 5 in respect of dwellings outside Wales.

Regulation 7 inserts a new paragraph 38 of Schedule 5 to introduce the meaning of “emergency”, “public authority” and “relevant restriction”.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a Regulatory Impact Assessment has been prepared as to the likely costs and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ and on the Welsh Government's website at www.gov.wales.

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2024 No. (W.)

**LAND TRANSACTION TAX,
WALES**

**The Land Transaction Tax and Anti-
avoidance of Devolved Taxes
(Wales) Act 2017 (Amendments to
Schedule 5) Regulations 2024**

Made

Coming into force

12 July 2024

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 24(11) and 78(1) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017(1).

In accordance with section 79(2)(c) of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, a draft of these Regulations was laid before and approved by a resolution of Senedd Cymru(2).

Title and commencement

1.—(1) The title of these Regulations is the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024.

(2) These Regulations come into force on 12 July 2024.

(1) 2017 anaw 1.

(2) See also section 40 of the Legislation (Wales) Act 2019 (anaw 4) for provision about the procedure that applies to this instrument.

Interpretation

2. In these Regulations, “the LTT Act” (“*y Ddeddf TTT*”) means the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017.

Amendments to Part 2 of Schedule 5 (Buyer is an individual: single dwelling transactions) to the LTT Act

3.—(1) Paragraph 8 of Schedule 5 to the LTT Act is amended as follows.

(2) In sub-paragraph (2)—

- (a) in paragraph (b), for “the period of 3 years ending with the effective date of the transaction concerned” substitute “the permitted period”;
- (b) in paragraph (d), for “the period of 3 years” substitute “the permitted period”.

(3) After sub-paragraph (2), insert—

“(2A) For the purposes of sub-paragraphs (2)(b) and (d), “the permitted period” means—

- (a) the period of 3 years ending with the effective date of the transaction concerned, or
- (b) any period ending with the effective date of the transaction concerned that is longer than 3 years if the conditions in sub-paragraph (2B) are met.

(2B) The conditions are—

- (a) a relevant restriction came into force during the period of 3 years beginning with the effective date of the previous transaction (“the relevant period”),
- (b) the relevant restriction had a substantial adverse effect on the buyer’s ability to acquire a dwelling as a replacement for the buyer’s only or main residence before the end of the relevant period, and
- (c) the transaction concerned is entered into—
 - (i) on or after 12 July 2024, and
 - (ii) as soon as reasonably practicable.

(2C) If the conditions in sub-paragraph (2B) are met, the buyer must include a statement in the return in respect of the transaction concerned that explains how the conditions in sub-paragraph (2B) are met.”

(4) In sub-paragraph (4)—

- (a) in paragraph (b)—

- (i) after “another land transaction” insert “(“the disposal transaction”);
 - (ii) for “the period of 3 years beginning with the day after the effective date of the transaction concerned” substitute “the permitted period”;
 - (b) in paragraph (c), for “that other land transaction” substitute “the disposal transaction”.
- (5) After sub-paragraph (4), insert—
- “(4A) For the purposes of sub-paragraph (4)(b), “the permitted period” means—
- (a) the period of 3 years beginning with the day after the effective date of the transaction concerned, or
 - (b) any period beginning with the day after the effective date of the transaction concerned that is longer than 3 years if the conditions in sub-paragraph (4B) or sub-paragraph (4C) are met.
- (4B) The conditions are—
- (a) a relevant restriction came into force during the period of 3 years beginning with the day after the effective date of the transaction concerned (“the relevant period”),
 - (b) the relevant restriction had a substantial adverse effect on the ability of the buyer or the buyer’s spouse, former spouse, civil partner or former civil partner to dispose of the major interest in the sold dwelling before the end of the relevant period, and
 - (c) the disposal transaction is entered into—
 - (i) on or after 12 July 2024, and
 - (ii) as soon as reasonably practicable.
- (4C) The conditions are—
- (a) on the effective date of the acquisition of the major interest in the sold dwelling by the buyer or the buyer’s spouse, former spouse, civil partner or former civil partner, the sold dwelling had a fire safety defect that a buyer of the interest could not reasonably have known about,
 - (b) a relevant person had a duty (to any extent) to remedy the fire safety defect, and
 - (c) either —

- (i) the fire safety defect was not remedied on the effective date of the disposal transaction, or
- (ii) where the fire safety defect was remedied on the effective date of the disposal transaction, the disposal transaction was entered into as soon as reasonably practicable after the fire safety defect was remedied.

(4D) In sub-paragraph (4C)—

“fire safety defect” (*“diffyg diogelwch tân”*), in relation to a sold dwelling, means a fire safety defect that is liable to—

- (a) substantially reduce the number of persons interested in purchasing the sold dwelling than would be the case without the defect, or
- (b) substantially reduce the market value of the sold dwelling than would be the case without the defect;

“relevant person” (*“person perthnasol”*) means—

- (a) where the major interest in the sold dwelling is a leasehold interest—
 - (i) the landlord of the person who had the major interest, or
 - (ii) the developer of the sold dwelling;
- (b) where the major interest in the sold dwelling is a freehold interest in commonhold land—
 - (i) the commonhold association for the sold dwelling, or
 - (ii) the developer of the sold dwelling;
- (c) where the major interest in the sold dwelling is a freehold interest (other than an interest in commonhold land), the developer of the sold dwelling.

(4E) In the definition of “relevant person” in sub-paragraph (4D), “developer” does not include a developer who is also the person who had the major interest.”

(6) In sub-paragraph (5), for “that other land transaction” substitute “the disposal transaction”.

Amendments to Part 3 of Schedule 5 (Buyer is an individual: multiple dwelling transactions) to the LTT Act

4.—(1) Paragraph 17 of Schedule 5 to the LTT Act is amended as follows.

(2) In sub-paragraph (2)—

- (a) in paragraph (b), for “the period of 3 years ending with the effective date of the transaction concerned” substitute “the permitted period”;
 - (b) in paragraph (d), for “the period of 3 years” substitute “the permitted period”.
- (3) After sub-paragraph (2), insert—
- “(2A) For the purposes of sub-paragraphs (2)(b) and (d), “the permitted period” means—
- (a) the period of 3 years ending with the effective date of the transaction concerned, or
 - (b) any period ending with the effective date of the transaction concerned that is longer than 3 years if the conditions in sub-paragraph (2B) are met.
- (2B) The conditions are—
- (a) a relevant restriction came into force during the period of 3 years beginning with the effective date of the previous transaction (“the relevant period”),
 - (b) the relevant restriction had a substantial adverse effect on the buyer’s ability to acquire a dwelling as a replacement for the buyer’s only or main residence before the end of the relevant period, and
 - (c) the transaction concerned is entered into—
 - (i) on or after 12 July 2024, and
 - (ii) as soon as reasonably practicable.
- (2C) If the conditions in sub-paragraph (2B) are met, the buyer must include a statement in the return in respect of the transaction concerned that explains how the conditions in sub-paragraph (2B) are met.”
- (4) In sub-paragraph (4)—
- (a) in paragraph (b)—
 - (i) after “another land transaction” insert “(“the disposal transaction”);
 - (ii) for “the period of 3 years beginning with the day after the effective date of the transaction concerned” substitute “the permitted period”;
 - (b) in paragraph (c), for “that other land transaction” substitute “the disposal transaction”.
- (5) After sub-paragraph (4), insert—
- “(4A) For the purposes of sub-paragraph (4)(b), “the permitted period” means—

- (a) the period of 3 years beginning with the day after the effective date of the transaction concerned, or
 - (b) any period beginning with the day after the effective date of the transaction concerned that is longer than 3 years if the conditions in sub-paragraph (4B) or sub-paragraph (4C) are met.
- (4B) The conditions are—
- (a) a relevant restriction came into force during the period of 3 years beginning with the day after the effective date of the transaction concerned (“the relevant period”),
 - (b) the relevant restriction had a substantial adverse effect on the ability of the buyer or the buyer’s spouse, former spouse, civil partner or former civil partner to dispose of the major interest in the sold dwelling before the end of the relevant period, and
 - (c) the disposal transaction is entered into—
 - (i) on or after 12 July 2024, and
 - (ii) as soon as reasonably practicable.
- (4C) The conditions are—
- (a) on the effective date of the acquisition of the major interest in the sold dwelling by the buyer or the buyer’s spouse, former spouse, civil partner or former civil partner the sold dwelling had a fire safety defect that a buyer of the interest could not reasonably have known about,
 - (b) a relevant person had a duty (to any extent) to remedy the fire safety defect, and
 - (c) either—
 - (i) the fire safety defect was not remedied on the effective date of the disposal transaction, or
 - (ii) where the fire safety defect was remedied on the effective date of the disposal transaction, the disposal transaction was entered into as soon as reasonably practicable after the fire safety defect was remedied.
- (4D) In sub-paragraph (4C)—
- “fire safety defect” (“*diffyg diogelwch tân*”), in relation to a sold dwelling, means a fire safety defect that is liable to—

- (a) substantially reduce the number of persons interested in purchasing the sold dwelling than would be the case without the defect, or
- (b) substantially reduce the market value of the sold dwelling than would be the case without the defect;

“relevant person” (*“person perthnasol”*) means—

- (a) where the major interest in the sold dwelling is a leasehold interest—
 - (i) the landlord of the person who had the major interest, or
 - (ii) the developer of the sold dwelling;
- (b) where the major interest in the sold dwelling is a freehold interest in commonhold land—
 - (i) the commonhold association for the sold dwelling, or
 - (ii) the developer of the sold dwelling;
- (c) where the major interest in the sold dwelling is a freehold interest (other than an interest in commonhold land), the developer of the sold dwelling.

(4E) In the definition of “relevant person” in sub-paragraph (4D), “developer” does not include a developer who is also the person who had the major interest.”

(6) In sub-paragraph (5), for “that other land transaction” substitute “the disposal transaction”.

Amendments to paragraph 23 of Schedule 5 (Further provision in connection with replacement of main residence exception) to the LTT Act

5.—(1) Paragraph 23 of Schedule 5 to the LTT Act is amended as follows.

(2) After sub-paragraph (6), insert—

“(7) If the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b)) is within the period mentioned in paragraph 8(4A)(b) by virtue of the conditions in paragraph 8(4B) being met—

- (a) section 78 of TCMA applies for the purposes of sub-paragraph (6) as if for “4 years” to the end there were substituted “12 months beginning with the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that

Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA.”;

(b) the claim must explain how the conditions in paragraph 8(4B) are met.

(8) If the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b)) is within the period mentioned in paragraph 8(4A)(b) by virtue of the conditions in paragraph 8(4C) being met—

(a) section 78 of TCMA applies for the purposes of sub-paragraph (6) as if for “4 years” to the end there were substituted “12 months beginning with—

(i) the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA if the effective date of the disposal transaction is on or after 12 July 2024, or

(ii) 12 July 2024 if the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA is on or after 1 April 2021 but before 12 July 2024.”;

(b) the claim must explain how the conditions in paragraph 8(4C) are met.

(9) If the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b)) is within the period mentioned in paragraph 17(4A)(b) by virtue of the conditions in paragraph 17(4B) being met—

(a) section 78 of TCMA applies for the purposes of sub-paragraph (6) as if for “4 years” to the end there were substituted “12 months beginning with the effective date of the disposal transaction (within the meaning of

paragraph 17(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA.”;

(b) the claim must explain how the conditions in paragraph 17(4B) are met.

(10) If the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b)) is within the period mentioned in paragraph 17(4A)(b) by virtue of the conditions in paragraph 17(4C) being met—

(a) section 78 of TCMA applies for the purposes of sub-paragraph (6) as if for “4 years” to the end there were substituted “12 months beginning with—

(i) the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA if the effective date of the disposal transaction is on or after 12 July 2024, or

(ii) 12 July 2024 if the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b) of Schedule 5 to the LTTA) by reference to which the transaction concerned (within the meaning of paragraph 23(1) of that Schedule) ceases to be a higher rates residential property transaction for the purpose of regulations under section 24(1)(b) of LTTA is on or after 1 April 2021 but before 12 July 2024.”;

(b) the claim must explain how the conditions in paragraph 17(4C) are met.”

Amendments to paragraph 35 of Schedule 5 (Dwellings outside Wales) to the LTT Act

6.—(1) Paragraph 35 of Schedule 5 to the LTT Act is amended as follows.

(2) In sub-paragraph (3)(d), omit “and”.

(3) After sub-paragraph (3)(e), insert—

“(f) references to “relevant restrictions” are references to a prohibition or restriction of any activity by the law of that country or territory or by a public authority of that country or territory by virtue of such a law for the purpose of preventing and controlling or mitigating the effects of an emergency, and

(g) the reference to “emergency” in paragraph (f), if the dwelling is situated outside the United Kingdom, is to be interpreted as if each reference to the United Kingdom in section 19(1) of the Civil Contingencies Act 2004 (c. 36) were a reference to the country or territory in which the dwelling is situated.”

(4) In sub-paragraph (4)—

(a) for paragraph (b), substitute—

“(b) paragraph 8(2)(b), (c), (d) and (e); paragraph 8(2A)(a) and (b); paragraph 8(2B)(a) and (c); paragraph 8(4)(b), (c) and (d); paragraph 8(4A)(a) and (b); paragraph 8(4B)(a) and (c) and paragraph 8(4C)(a) and (b),”;

(b) for paragraph (e), substitute—

“(e) paragraph 17(2)(b), (c), (d) and (e); paragraph 17(2A)(a) and (b); paragraph 17(2B)(a) and (c); paragraph 17(4)(b), (c) and (d); paragraph 17(4A)(a) and (b); paragraph 17(4B)(a) and (c) and paragraph 17(4C)(a) and (b),”.

Definition of “emergency”, “public authority” and “relevant restriction” for the purposes of Schedule 5 to the LTT Act

7. After paragraph 37 of Schedule 5 to the LTT Act, insert—

“Meaning of emergency, public authority and relevant restriction

38 (1) For the purposes of this Schedule—

“emergency” (*“argyfwng”*) has the meaning given by section 19 of the Civil

Contingencies Act 2004 (c. 36) and is not restricted to events or situations in relation to which powers are exercised under that Act;

“public authority” (“*awdurdod cyhoeddus*”) means a person carrying out a function of a public nature;

“relevant restriction” (“*cyfyngiad perthnasol*”) means a prohibition or restriction of any activity by an enactment, or by a public authority by virtue of an enactment, for the purpose of preventing, controlling or mitigating the effects of an emergency.

(2) In sub-paragraph (1) “relevant restriction” does not include a prohibition or restriction that ceased to have effect before 12 July 2024.”

Name

Cabinet Secretary for Finance, Constitution and Cabinet Office, one of the Welsh Ministers

Date