

Explanatory Memorandum to

The Land Transaction Tax (Administration) (Wales) Regulations 2018

This Explanatory Memorandum has been prepared by the Office of the First Minister and Cabinet Office of the Welsh Government and is laid before the National Assembly for Wales 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 Land Transaction Tax (Administration) (Wales) Regulations 2018. I am satisfied that the benefits justify the likely costs.

Mark Drakeford AM – Cabinet Secretary for Finance
8 January 2018

1. Description

- 1.1 These Regulations make provision for various matters relating to the administration of land transaction tax. They set out when a WRA Certificate must be issued and what it must include, additionally to setting out the evidence requirements for certain provisions relating to alternative finance investment bonds.

2. Matters of special interest to the Constitutional Affairs Committee

- 2.1 None.

3. Legislative background

- 3.1 Section 65 of the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (“the LTTA Act”) prohibits the Chief Land Registrar of Her Majesty’s Land Registry from amending the register of title in respect of a notifiable land transaction until a certificate has been produced by the Welsh Revenue Authority (“WRA”).
- 3.2 The power enabling these Regulations to be made derives from section 65(5) of the LTTA Act, which provides the Welsh Ministers with the power to make regulations about certificates to be issued by WRA following the submission of a return in respect of a notifiable land transaction¹.
- 3.3 Schedule 11 to the LTTA Act provides for relief in the case of certain land transactions connected to alternative finance investment bonds. Part 3 of these Regulations prescribes evidence which must be submitted to WRA where relief is claimed under Schedule 11 to the LTT Act, and the Regulations in this Part are made to support powers conferred by paragraphs 2, 9(1), 16 and 18(4)(a) and (5) of that Schedule.
- 3.4 These regulations will be subject to the **negative** procedure as prescribed for under section 79(3).

4. Purpose & intended effect of the legislation

WRA Certificates

- 4.1 The **purpose** of the Regulations contained in Part 2 is to set out the conditions which will need to be satisfied before WRA must issue a WRA certificate. The Regulations also prescribe the form and content of a WRA certificate, and make provision in relation to duplicate and multiple certificates.
- a) The conditions to be met before a certificate is issued: Regulation 3 provides that a WRA certificate must be issued where WRA is satisfied that a return has been received and completed and contains any necessary declaration. Where the return relates to a chargeable transaction², WRA must also be satisfied that the return contains a self-assessment as required by section 44(2)(b) of the LTTA Act.
- b) The form and content of a certificate: Regulation 4 specifies that a WRA certificate must contain information including the address of the land to which the transaction relates; any title number of the land as appropriate; a description of the transaction; the effective date of the transaction; and the name of the buyer and seller.

¹ Defined by section 45 of the LTTA Act

² Defined by section 17 of the LTTA Act

c) Duplicate certificates: Regulation 5 requires the issue of a duplicate WRA certificate in cases where the original certificate has been lost or destroyed.

d) The issuing of multiple certificates where the return relates to more than one transaction: Regulation 6 enables a buyer in a land transaction to request multiple certificates where a return is made relating to more than one transaction.

4.2 The **intended effect** of the regulations is to ensure that section 65 of the LTTA Act operates effectively. They set out the details that must be included in a certificate issued by the WRA that will be used by the taxpayer when registering their transactions at HM Land Registry.

Alternative Finance Investment Bonds

4.3 The **purpose** of the regulations contained in Part 3 is to prescribe the evidence which must be submitted to WRA where relief is claimed under Schedule 11 to the LTTA Act. These regulations relate to the evidence required for the operation of the relief available for certain land transactions connected to alternative finance investment bonds.

4.4 These regulations set out for the operation of the relief available during the period of time that an alternative finance investment bond is created, to the expiration or certain other events during this time, evidence must be provided to WRA by the bond issuer in order to demonstrate that:

a) a legal charge in favour of WRA has been entered into the register of title maintained by the Chief Land Registrar;

b) certain conditions have been met to discharge the legal charge registered in pursuance of paragraph 9(1) of that Schedule;

c) the original land has been transferred to the original owner, and a legal charge has been registered in relation to the replacement land, which is in Wales; and

d) the original land has been transferred to the original owner, and that the relevant conditions have been met in relation to the replacement land, which is not in Wales.

4.5 **The intended effect** of the regulations is to ensure that certain transactions connected to alternative finance investment bonds are relieved from tax, thereby equalising the LTT tax treatment with interest bearing bonds.

5. Consultation

5.1 The WRA implementation team has engaged with HM Land Registry on the content and the requirements of the certificates. The requirements for the WRA Certificate have been discussed with HMLR including electronic certificates. The WRA certificate will be aligned very closely to the current HMRC SDLT certificate requirements.

5.2 Schedule 11 to the LTTA Act contains the substantive rules for alternative finance investment bonds. No formal consultation has been undertaken as the regulations contained in Part 3 align closely with the SDLT requirements.

6. Regulatory Impact Assessment

- 6.1 An assessment of the costs and benefits has not been conducted because it is considered that no significant costs will arise as result of implementing the regulations. They solely set out the contents of a certificate issued by WRA when a return has been made in respect of the associated transaction and prescribe evidence which must be submitted to WRA where relief is claimed under Schedule 11 in relation to alternative finance investment bonds.
- 6.2 The regulations have no impact on the statutory duties (Section 77-79 GOWA 2006) or statutory partners (sections 72-75 GOWA 2006).

7. Post Implementation review

- 7.1 Section 77 of the LTTA Act provides that the Welsh Ministers must make arrangements for an independent review of land transaction tax to be completed within 6 years of the day after the day of the LTTA Act receiving Royal Assent. A review of LTT will encompass all of the subordinate legislation made under the LTTA Act.