



Llywodraeth Cymru  
Welsh Government

**Number:** WG48121

Welsh Government  
Consultation Document

**Public consultation on the proposal to extend the land transaction tax higher residential rates 3-year exception and refund periods, in specified circumstances.**

The Minister for Finance and Local Government intends to put before the Senedd a proposal to change land transaction tax rules to allow homebuyers, in specified difficult circumstances, extensions to the current 3-year periods. The proposal will be put before the Senedd once the responses to this consultation have been considered.

Date of issue: 19 December 2023

Action required: Responses by: 17 March 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh  
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

## Overview

This public consultation seeks views on a proposal which the Welsh Government intends to bring before the Senedd, on the introduction of new tax rules regarding refunds of, and exceptions to liability from, land transaction tax higher residential rates charges.

## How to respond

You can respond to this consultation by answering the questions set out within this document and in the response form.

You can respond via the [online questionnaire](#), or by sending us a paper copy of your responses by post.

**Postal address** (please note, responses should arrive by 17 March 2024 at the latest):

Land transaction tax public consultation  
Tax Strategy and Intergovernmental Relations Division  
Welsh Treasury  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

## Further information and related documents

Large print, Braille and alternative language versions of this document are available on request.

## Contact details

For further information:

**Email:** [LTTConsultation.ExtendingPeriodsForRefundsAndExceptions@gov.wales](mailto:LTTConsultation.ExtendingPeriodsForRefundsAndExceptions@gov.wales)  
[YmgynghoriadTTT.YmestynYCyfnodAddaliadauAcEithriadau@llyw.cymru](mailto:YmgynghoriadTTT.YmestynYCyfnodAddaliadauAcEithriadau@llyw.cymru)

## Postal address:

Land transaction tax public consultation  
Tax Strategy and Intergovernmental Relations Division  
Welsh Treasury  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

This document is also available in Welsh: [Ymgynghoriad Cyfraddau Preswyl Uwch y DTT](#)

## **UK General Data Protection Regulation (UK GDPR)**

The Welsh Government will be data controller for Welsh Government consultations and for any personal data you provide as part of your response to the consultation.

Welsh Ministers have statutory powers they will rely on to process this personal data which will enable them to make informed decisions about how they exercise their public functions. The lawful basis for processing information in this data collection exercise is our public task; that is, exercising our official authority to undertake the core role and functions of the Welsh Government. (Art 6(1)(e))

Any response you send us will be seen in full by Welsh Government staff dealing with the issues which this consultation is about or planning future consultations. In the case of joint consultations this may also include other public authorities. Where the Welsh Government undertakes further analysis of consultation responses then this work may be commissioned to be carried out by an accredited third party (e.g. a research organisation or a consultancy company). Any such work will only be undertaken under contract. Welsh Government's standard terms and conditions for such contracts set out strict requirements for the processing and safekeeping of personal data.

In order to show that the consultation was carried out properly, the Welsh Government intends to publish a summary of the responses to this document. We may also publish responses in full. Normally, the name and address (or part of the address) of the person or organisation who sent the response are published with the response. If you do not want your name or address published, please tell us this in writing when you send your response. We will then redact them before publishing.

You should also be aware of our responsibilities under Freedom of Information legislation and that the Welsh Government may be under a legal obligation to disclose some information.

If your details are published as part of the consultation response then these published reports will be retained indefinitely. Any of your data held otherwise by Welsh Government will be kept for no more than three years.

### **Your rights**

Under the data protection legislation, you have the right:

- to be informed of the personal data held about you and to access it
- to require us to rectify inaccuracies in that data
- to (in certain circumstances) object to or restrict processing
- for (in certain circumstances) your data to be 'erased'
- to (in certain circumstances) data portability
- to lodge a complaint with the Information Commissioner's Office (ICO) who is our independent regulator for data protection

For further details about the information the Welsh Government holds and its use, or if you want to exercise your rights under the UK GDPR, please see contact details below:

Data Protection Officer:  
Welsh Government  
Cathays Park  
CARDIFF  
CF10 3NQ  
e-mail: [dataprotectionofficer@gov.wales](mailto:dataprotectionofficer@gov.wales)

The contact details for the Information  
Commissioner's Office are:  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Tel: 0303 123 1113  
Website: <https://ico.org.uk/>

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Draft Explanatory Memorandum, including Regulatory Impact Assessment

## Introduction

This is the Welsh Government's public consultation on its proposed changes to the rules governing land transaction tax (LTT) higher residential rates exception and refund periods. The Welsh Government intends in due course to put new draft regulations, in the form of a statutory instrument (SI), to the Senedd for consideration and approval, so that the proposed changes become law.

The new rules will allow homebuyers, in specified circumstances, more time than currently allowed to apply for refunds of, or to claim exception from, LTT higher residential rates charges. Currently, only 3 years are allowed for these refunds and exceptions to apply. The new rules will allow an unlimited extension in certain specified circumstances.

Published as part of this consultation are:

- the draft SI which will make the changes, "*The Land Transaction Tax and Anti-Avoidance of Devolved Taxes (Wales) Act 2017 (Amendments to Schedule 5) Regulations 2024*" (Annex 1), and
- the associated draft Explanatory Memorandum (EM) and draft Regulatory Impact Assessment (RIA) which will be laid before the Senedd alongside the SI in due course (Annex 2).

An Integrated Impact Assessment (IIA) will be published after the consultation, and laid before the Senedd alongside the draft SI, EM and RIA. The IIA will explain how Welsh Government has considered the broader potential impact of the proposed rule changes, in terms of social, cultural, economic and environmental well-being, socio-economic disadvantage and the Welsh language.

This consultation document poses questions regarding the proposals. The Welsh Government is interested in the public's answers to these questions in particular, but welcomes all comment regarding the changes.

The consultation opens on 19 December 2023 and closes on 17 March 2024. Once the responses to this consultation have been considered, the Welsh Government will issue a report summarising them and setting out the next steps. The intention is that the new draft regulations will be put before the Senedd in the first half of 2024.

Responses to this consultation will initially be seen and handled by officials in the Welsh Treasury, the department of Welsh Government which advises Ministers on tax policy. Responses may also be seen and handled by officials in other departments of Welsh Government, which may include the Welsh Revenue Authority, the non-Ministerial department responsible for collecting LTT. The WRA is also responsible for ensuring that taxpayers pay the correct amount of LTT.

[About the Welsh Revenue Authority | GOV.WALES](#)

The Welsh Government, in wanting to introduce new tax rules, has chosen to consult the public to assess views of the potential benefits and impacts the new rules may bring. There is no statutory duty to consult on this matter. The Welsh Government's tax principles set out the approach to developing and delivering devolved tax, stating that Welsh taxes should raise revenue to fund public services as fairly as possible, deliver Welsh Government policy objectives, be clear, stable and simple, be

developed through collaboration and involvement, and contribute directly to the Well Being of Future Generations Act goal of creating a more equal Wales.

### **The matters under consideration in this consultation**

The following explanation summarises the more detailed version given in the draft Explanatory Memorandum, published alongside this consultation document (Annex 2).

Currently, the higher residential rates of LTT are charged on transactions including the purchase of a dwelling or dwellings costing £40,000 or more, when the homebuyer already owns an interest in one or more other dwelling(s) worth more than £40,000. Refunds and exceptions can apply, but only for up to 3 years from the date of the new purchase.

Refunds and exceptions apply in the two scenarios described below.

- i) In a purchase before sale (PBS) scenario, a taxpayer who has paid the LTT higher residential rates on the purchase of a dwelling intended to be their new only or main residence, may apply for a refund of the higher residential rates element.

Within 3 years following the purchase of the new home, but only once they sell the former only or main residence, they may apply for a refund of the higher residential rates element. The right to apply for a refund expires 4 years after the purchase of the new home.

- ii) In a sale before purchase (SBP) scenario, a taxpayer may benefit from an exception to liability to the higher residential rates charge for 3 years from the date they sell their only or main residence. During those 3 years, even if they have an interest in another dwelling at the time of the purchase of the new main residence, they may claim exception to liability to the higher residential rates charge, instead being liable for the main rates charge.

This exception to liability applies only if they buy the new only or main residence within 3 years of the sale of the former main residence. If they take longer than 3 years, they must pay the higher residential rates on the new purchase.

The refund and exception rules are intended to provide taxpayers with the necessary flexibility to bridge between homes, without incurring LTT higher residential rates charges. Taxpayers seeking refunds must apply to the Welsh Revenue Authority (WRA), who assess and award claims. Taxpayers seeking to benefit from the exception rule should self-assess and pay the main residential rates rather than the higher residential rates when paying LTT charges. The WRA conducts checks as they believe necessary or appropriate on self-assessments.

Since the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (the Act containing these rules) was passed in 2017, specific adverse circumstances have arisen such that some transactions can be impeded or prevented to the extent that the 3-year refund and exception periods are too short.

The specific adverse circumstances in question are those in which a transaction has been

- i) impeded by fire safety defects,  
and/or
- ii) prevented by emergency restrictions.

The proposed new rules will provide extensions to the 3-year periods as set out below.

New rules for PBS cases.

- PBS transactions impeded by fire safety defects: the 3-year period will be extended so that taxpayers may claim a refund on all qualifying transactions taking place from 1 April 2018.

- PBS transactions prevented by emergency restrictions: the 3-year period will be extended for all transactions taking place once the new rules come into force. Please note, this change will not apply to transactions affected by restrictions imposed before the rules come into force, e.g. during the Covid pandemic.

New rules for SBP cases.

- SBP transactions prevented by emergency restrictions: the 3-year exception period will be extended for all transactions taking place once the new rules come into force.

Please note, unlike PBS transactions, the new rules will not offer an extension to the 3-year exception period for SBP transactions impeded by fire safety reasons (it is not considered necessary to offer taxpayers assistance in this regard).

## Questionnaire

### 1. Overview of what the new rules will do.

The new regulations will extend the LTT 3-year refund and exception periods for taxpayers in the specified circumstances, to claim refunds, or to claim exception from liability to pay, the LTT higher residential rates portion.

The specified circumstances are

- Where the sale of a former main residence was prevented owing to emergency restrictions,

and/or

- Where the sale of a former main residence was impeded due to issues related to fire safety defects.

(For further information, see the Explanatory Memorandum (Annex 2), 1. Description, 3. Legislative Background and 4. Purpose and Intended Effect of the Legislation.)

#### Question 1.1

Do you agree that, in general terms, the law should be changed to offer additional assistance to eligible taxpayers?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

#### Question 1.2

Do you think this measure will in general terms have, or potentially will have, positive, negative or no impact on you, or on those you advise?

Positive impact	No impact	Negative impact
Additional comment		

## 2. The different treatment in the new rules for transactions according to the specific impediment encountered.

For transactions in Purchase Before Sale (PBS) scenarios, impeded by fire safety defects, the new rules will provide the taxpayer with the ability to claim a refund beyond the standard 3-year period.

However, for both PBS and SBP transactions prevented by emergency restrictions, the new rules will allow extensions to the 3-year periods only for transactions taking place, and in relation to restrictions imposed, after the new rules come into force.

The new rules will not allow claims in relation to the emergency restrictions in force in 2020 that led to the closure of the housing market, as the Welsh Government considers there was sufficient time to sell property between the point at which the housing market fully reopened in July 2020 and 1 April 2021, which was the first point at which the 3-year periods could have ended.

(For further information, see the Explanatory Memorandum (Annex 2), 4. Purpose and Intended Effect of the Legislation.)

### Question 2.1

Do you agree that transactions impeded by fire safety defects should be treated in this way?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

### Question 2.2

Do you agree that transactions prevented by emergency restrictions should be treated in this way?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

### Question 2.3

Do you think this aspect of the new legislation will have, or potentially will have, positive impact, negative impact or no impact on you, or on those you advise?

Positive impact	No impact	Negative impact
Additional comment		

**3. Different extension criteria in SBP and PBS scenarios in the proposed new rules.**

Under the proposed new rules for PBS scenarios, either of the two relevant circumstances will be allowed as criteria for extending the 3-year period, either a transaction being prevented owing to emergency restrictions, or a transaction being impeded due to issues related to fire safety defects.

However, in SBP scenarios, only one relevant circumstance will be allowed as a criterion for extending the 3-year exception period, that being where the purchase of a new main residence is prevented by emergency restrictions.

(For further information, see the Explanatory Memorandum (Annex 2), 4. Purpose and Intended Effect of the Legislation.)

**Question 3.1**

Do you agree that the new legislation should make this distinction between SBP and PBS scenarios?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

**Question 3.2**

Do you think this aspect of the new legislation will have, or potentially will have, positive, negative or no impact on you, or on those you advise?

Positive impact	No impact	Negative impact
Additional comment		

#### 4. Benefits and Costs

##### Question 4.1

Do you agree that the new regulations will provide benefit to taxpayers?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

##### Question 4.2

Do you agree that the new regulations will increase cost to you?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

##### Question 4.3

Do you agree that the benefits of the new regulations will justify the cost to you?

Strongly Agree	Agree	Neither	Disagree	Strongly disagree
Additional comment				

For information on the Welsh Government's assessment of costs and benefits, see the Explanatory Memorandum (Annex 2), Part 2, Regulatory Impact Assessment.

**5. What, in your opinion, would be the likely effects of the new legislation on the Welsh language?**

We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

5.1 Do you think that there are opportunities to promote any positive effects?

Yes	No
Additional comment	

5.2 Do you think that there are opportunities to mitigate any adverse effects?

Yes	No
Additional comment	

**6. In your opinion, could the new legislation be formulated or changed so as to:**

6.1, have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English;

Yes	No
Additional comment	

6.2, or to mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Yes	No
Additional comment	

**7. Other comments.**

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use the space below to report them, including any specific comment on the draft statutory instrument:

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Responses to consultations could be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here:

*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.*

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DRAFT WELSH STATUTORY INSTRUMENTS

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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**

**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 36-month 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 “relevant restriction”, “emergency” and “public authority”.

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](http://www.gov.wales).

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DRAFT WELSH STATUTORY INSTRUMENTS

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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* \*\*\*

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 [            2024].

**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.—a) 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

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(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.

- (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 the [*date the regulations come into force*], 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 the [*date the regulations come into force*], 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, the buyer’s spouse, the buyer’s former spouse, the buyer’s civil partner or the buyer’s 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”, 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;
  - (b) substantially reduce the market value of the sold dwelling than would be the case without the defect;

“relevant person” 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.”

#### **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-paragraph (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 the [*date the regulations come into force*], 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 the [*date the regulations come into force*], 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, the buyer’s spouse, the buyer’s former spouse, the buyer’s civil partner or the buyer’s 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”, 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” 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.”

**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 is amended as follows.

(1) 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 LTТА) 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).”;
- (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 LTТА) 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) if the effective date of the disposal transaction is on or after [*date the regulations come into force*], or
  - (ii) [*date the regulations come into force*] if the effective date of the disposal transaction (within the meaning of paragraph 8(4)(b) of Schedule 5 to the LTТА) 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) is on or after 1 April 2021 but before [*date the regulations come into force*].”;
- (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 LTТА) 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).”;
- (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—
  - (a) the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b) of Schedule 5 to the LTТА) 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) if the effective date of the disposal transaction is on or after [*date the regulations come into force*], or
  - (b) [*date the regulations come into force*] if the effective date of the disposal transaction (within the meaning of paragraph 17(4)(b) of Schedule 5 to the LTТА) 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) is on or after 1 April 2021 but before [*date the regulations come into force*].”;

- (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.—b) Paragraph 35 is amended as follows.

(1) In paragraph (3)(e), omit “and”.

(2) 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 were a reference to the country or territory in which the dwelling is situated.”

(3) 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); paragraph 8(4C)(a) and (b) and paragraph 8(4A)(a) and (b),”

(b) for paragraph (c) 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); paragraph 17(4C)(a) and (b) and paragraph 17(4A)(a) and (b),”

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

7. After paragraph 37 (major interest not to include certain leases) insert—

*“Meaning of relevant restriction, emergency and public authority*

38. (1) For the purposes of this Schedule—

“emergency” 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” means a person carrying out a function of a public nature;

“relevant restriction” 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 [*date the regulations come into force*].”

*Name*

Minister for Finance and Local Government, one of the Welsh Ministers

*Date*

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

This Explanatory Memorandum has been prepared by the Welsh Treasury and is laid before Senedd Cymru in conjunction with the above subordinate legislation, and in accordance with Standing Order 27.1.

**Minister's Declaration**

[To be completed prior to laying in Senedd]

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## PART 1 – EXPLANATORY MEMORANDUM

### 1. Description

1.1 Currently, the higher rate of land transaction tax (LTT) is applied to transactions of residential property costing £40,000 or more, when the homebuyer(s) (if individuals) already own(s) an interest in one or more other residential properties (a dwelling/dwellings) worth more than £40,000. Refunds and exceptions can apply in certain circumstances, but the period in which they apply is limited to 3 years from the date of the new purchase or sale of the former home, where relevant.

1.2 Refunds and exceptions apply in the two scenarios described below, typically situations in which homebuyers move between two homes.

iii) In a purchase before sale (PBS) scenario, a taxpayer who has paid the LTT higher residential rate on the purchase of a dwelling intended to be their new only or main residence, may apply for a refund of the higher rate element, typically applied at the purchase of a dwelling intended to be their new only or main residence<sup>3</sup>, when they are still in possession the former only or main residence. (Here, 'higher rate element' refers to the difference between the higher residential rate charge and the main residential rate charge.)

Within 3 years following the purchase of the new home, but only once they sell the former only or main residence, they qualify for a refund of the higher residential rate element. The right to apply for a refund expires 4 years after the purchase of the new home.

iv) In a sale before purchase (SBP) scenario, a taxpayer may benefit from an exception to liability to the higher residential rates charge for 3 years from the date they sell their only or main residence. During those 3 years, even if they have an interest in another dwelling at the time of the purchase of the new main residence, they may claim exception to liability to the higher residential rates charge, instead being liable for the main rate charge.

This exception to liability applies only if the taxpayer buys the new only or main residence within 3 years of the sale of the former main residence. If they take longer than 3 years, they must pay the higher residential rates on the new purchase.

Applications for refunds and claims for exceptions are made to the Welsh Revenue Authority (WRA) or self-assessed by the taxpayer. The WRA conducts checks on claims and self-assessments as they consider necessary.

1.3 Since the legislation that governs LTT (the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('the Act')) was passed in 2017,

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<sup>3</sup> An only or main residence is used here broadly to mean a dwelling that is the home of the taxpayer. A taxpayer could own only one property (perhaps as a buy to let) but live elsewhere (for example, with a partner, at their parents, in rented accommodation or abroad). That owned dwelling will not be their only or main residence as it is not their home.

specific adverse circumstances have arisen such that some transactions can be impeded or prevented, so that the 3-year refund and exception period is too short.

The specific adverse circumstances in question, termed 'relevant circumstances' in the Regulations, are those in which the sale of a previous main residence has been:

- i) impeded by fire safety defects,
- or
- ii) prevented by emergency restrictions.

1.4 These Regulations introduce changes to the Act which will provide extensions to the 3-year period as follows.

#### New rules for PBS cases.

- PBS transactions impeded by fire safety defects: a taxpayer will be able to claim a refund beyond the 3-year limit originally set, if the details of their case would have met the relevant circumstances and conditions within the 3-year period.
- PBS transactions prevented by emergency restrictions: the extension to the 3-year period to replace the only or main residence will be provided for transactions prevented by restrictions which come into force once the new LTT regulations are in force, where all other current relevant circumstances and conditions pertain.

#### New rules for SBP cases.

- SBP transactions prevented by emergency restrictions: the 3-year exception period will be extended to transactions affected by such restrictions in force at or after the date the Regulations come into force, where all other relevant conditions apply.
- Please note, unlike PBS transactions, the new rules will not offer an extension to the 3-year exception period for SBP transactions impeded by fire safety defects.

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

None.

### 3. Legislative Background

3.1 Schedule 5 to the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 ('the Act') sets out the rules identifying when the purchase of a property is subject to the higher residential rates, including exceptions to the requirement to pay higher residential rates.

3.2 Section 24(11) of the Act provides the Welsh Ministers with power to amend Schedule 5 to the Act. Any Regulations making changes to Schedule 5 are subject to the draft affirmative procedure (section 79(2)(c) of the Act).

3.3 **LTT higher residential rates.** Currently, the higher residential rates of Land Transaction Tax (LTT) are applied to transactions of residential property (specifically a dwelling) costing £40,000 or more, when the homebuyer already owns (has interests in) one or more other dwellings. Exceptions and refunds apply in defined circumstances (see below) and apply for a period of 3 years only, following a relevant transaction.

3.4 **Exceptions to paying LTT higher rates.** Paragraphs 8(2) and 17(2) of Schedule 5 to the Act set out an exception to higher residential rates, stating that a taxpayer who owns an interest in a dwelling which is not an only or main residence, may sell their residence and, for the subsequent 3 years following that sale, purchase another only or main residence and not pay higher residential rates on the transaction (the sale before purchase or SBP scenario). The exception expires at the end of the 3-year period, after which the taxpayer will need to pay the higher residential rate charge when purchasing a dwelling.

3.5 **Refund of higher rate element of LTT charge.** Paragraphs 8(4) and 17(4) of Schedule 5 to the Act state that when a taxpayer buys a new only or main residence before they sell their former only or main residence (the purchase before sale or PBS scenario), they are required to pay the higher residential rates on the purchase, but may reclaim the higher residential rates element once they sell the former only or main residence, if they do so within 3 years of the purchase of the new only or main residence. (Here, 'higher rate element' refers to the difference between the higher residential rate charge and the main residential rate charge.)

3.6 These rules provide a degree of flexibility to homebuyers moving from one only or main residence to another. The 3-year period is intended to provide sufficient time for the sale of a previous main residence, including when delays are experienced, such as the collapse of a chain. Tax professionals consulted during the Stamp Duty Land Tax (SDLT) consultation on the introduction of the SDLT higher residential rates in winter 2015/2016, and on LTT in summer/autumn 2016, indicated a 3-year period was considered sufficient to sell or buy a dwelling in most instances. In most cases, taxpayers seek to sell former only or main residences as soon as possible once they have purchased a new property. In most cases, 3 years will remain a sufficient period.

## 4. Purpose and Intended Effect of the Legislation

### Potential Refund Scenario - Purchase Before Sale - extension to the 3-year period

4.1 The Regulations will amend the Act to allow, where the relevant circumstances apply and the specified conditions are met, the 3-year period to be extended.

4.2 The relevant circumstances are:

- Where the sale of a former main residence was prevented due to emergency restrictions and/or other action taken by a public authority, and/or
- Where the sale of a former main residence was impeded due to fire safety defects.

4.3 The following conditions must be met:

In cases involving emergency restrictions,

- the restrictions must have come into force within 3 years of the day after the effective date of the relevant transaction,
- the restrictions must have 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
- the sale must have occurred on or after the day the regulations come into force, and as soon as reasonably practicable.

In cases involving fire safety defects,

- the buyer, their spouse, their former spouse, their civil partner or former civil partner, could not reasonably have known about the defect, on the date the dwelling impacted by a fire safety defect was bought,
- a relevant person, such as a developer or freeholder, had a duty (to any extent) to remedy the fire safety defect, and
- either the fire safety defect was not remedied on the sale date of the disposal transaction, or where the fire safety defect was remedied on the sale date, the sale must have occurred as soon as reasonably practicable after the fire safety defect was remedied.

4.4 All relevant transactions which take place after the Regulations have come into force will be subject to the new rules. Additionally, in Purchase Before Sale (PBS) cases only, transactions which took place any time since 1 April 2018, specifically if impeded due to fire safety defects, will be subject to the new rules. For those sale transactions that occurred up to 31 March 2021 they will be within the standard 3-year refund claim period. For those on or after 1 April 2021, and where the sale transaction is outside the standard 3-year rules, the new extended period may apply.

4.5 The new rules will not allow claims in relation to the restrictions in force in 2020 that led to the closure of the housing market, as the Welsh Government considers there was sufficient time to sell property between the point at which the market reopened in July 2020 and 1 April 2021, which was the first point at which the 3-year period could have ended.

## Potential Exception Scenario - Sale Before Purchase (SBP) - extension to the 3-year period

4.6 The Regulations will amend the Act to allow, in Sale Before Purchase (SBP) cases, where the relevant circumstances apply and the specified conditions are met, for the 3-year exception period to be extended. In SBP cases, in contrast to the PBS cases, only one relevant circumstance may provide grounds for an extension to apply:

- where the purchase of a new only or main residence was prevented owing to emergency restrictions.

4.7 For the SBP scenario, the following condition must be met in each case:

- the new main or only residence was bought as soon as reasonably practicable after the impediment to the purchase was removed.

4.8 In SBP cases, the rules will apply only for purchase transactions which take place after the Regulations come into force.

## Timelines, claims and appeals

4.9 Under the new Regulations, as is currently the case, claims for refunds must be submitted to the WRA, who will make the appropriate refunds (in PBS cases). In SBP cases the taxpayer may self-assess their liability at the main residential rates rather than the higher residential rates, if they believe the exemption applies to them. As with other refund claims or self-assessment returns the WRA may conduct checks to ensure that the refund is allowable or the correct amount of tax has been declared.

4.10 In SBP cases, where a taxpayer seeks an exception, the new rules will require the taxpayer when making their return, to state why they believe the WRA should allow a longer period for the relevant purchase or sale. The taxpayer will need to have relevant evidence to support their statements.

4.11 In PBS cases, the new rules will require taxpayers claiming a refund after the initial 3 years have passed, to do so within one year of the sale of the former only or main residence, and in the form required by the WRA.

4.12 Taxpayers in both PBS and SBP cases will retain their right to request a WRA review and a right of appeal to the independent tax tribunal in the event of disagreement with the decisions made by the WRA in relation to their tax liabilities. This provides an important protection to taxpayers and ensures that disputes in this area between the taxpayer and the WRA can ultimately be resolved by referral to an independent body.

## Fire Safety defects impeding transactions

4.13 The types of fire safety defects that act as an impediment to sale will apply mainly to flats (rather than houses) where responsibility for maintaining fire safety rests (to any extent) with a person, such as for example a freeholder or management company, other than the homeowner. These rules apply to PBS cases alone. The extension to the 3-year period for those dwellings impacted by fire safety defects is primarily aimed at those taxpayers who have found themselves with a dwelling they are unable to sell, because the defects have resulted in their properties becoming unsaleable. In this context, unsaleable will include cases where they are unmortgageable, and/or can only be sold at significant discount. All cases will depend on their individual circumstances, but the Welsh Ministers are, subject to Senedd approval, bringing forward these changes to the refund rules primarily to address the fire safety defects that have become known following the Grenfell Tower tragedy.

4.14 A leasehold flat can become unsaleable because of the actions or inactions of another person (the 'relevant person' in the legislation) such as the freeholder, developer or management company, with the leaseholder not being able to undertake the necessary repairs or remedial work themselves. While individual houses also can have significant fire safety defects, resolving these is generally the responsibility of the homeowner. However, in some cases houses may have been constructed in such a manner that the fire safety defects make the house unsaleable or unmortgageable, and the responsibility for making good those defects does not rest solely with the taxpayer.

4.15 Under the new rules for claims, homeowners will not be entitled to claim a refund where the fire safety defect that is an impediment to a sale has been caused by their own actions or inactions.

**5. Consultation.**

[To be completed post consultation.]

## **PART 2 – REGULATORY IMPACT ASSESSMENT**

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## 6. Options

### 6.1 Option 1 – Retain Current Rules – No Change

6.1.1 The rules would not be amended.

6.1.2 Advantages. Simplicity of rules retained and no specific impact on LTT revenues.

6.1.3 Disadvantages. Those affected by the relevant circumstances would be unable to obtain refunds or be eligible for exceptions beyond the current 3 years.

### 6.2 Option 2 – Make New Regulations to Allow for Extensions in Defined Situations

6.2.1 Extensions to the 3-year LTT higher residential rates exception and refund periods would be available in the specified circumstances.

6.2.2 Advantages. Consistent with Welsh Government tax priorities, this option offers fairer tax treatment to those affected by the relevant circumstances. It therefore is preferable to option 1. This option also clearly sets out in legislation the circumstances in which a taxpayer may make claim a refund of, or benefit from the exception to, the higher residential rates. This option is preferable to option 3 on grounds of lower administrative costs.

6.2.3 Disadvantages. This option may involve changes to WRA operations, and taxpayers and external advisers will need to familiarise themselves with the new rules. There may be a marginal impact on LTT revenues to Welsh Government.

6.3 Option 3 – A Grant Scheme 6.3.1 The LTT rules might remain unamended but new legislation may be required to establish and govern a new scheme, if a statutory rather than non-statutory scheme were required, in the taxation context. Relief could be provided through grants as appropriate, alongside the existing dual routes of refund and exemption periods where the standard 3-year rules applied. Grants to the value of the higher residential rates would be made available, using the eligibility criteria explained in Part 1.

6.3.2 Advantages. This option would provide fairer treatment, and is preferable to option 1, which offers no remedy.

6.3.3 Disadvantages. It is not thought possible to accurately estimate the cost-benefit ratio, but it is considered to be more expensive and time consuming than option 2. Setting up a new scheme would be more time consuming than deploying existing mechanisms. Once operational, the scheme would need to raise awareness and educate taxpayers and agents, which could take longer for option 3 than option 2. A grant scheme would be operationally complex, whether an entirely new scheme or an addition to an existing scheme. Appending a grants scheme to a taxation regime would provide additional legal complexity. Closure of the scheme would be unlikely given the circumstances in which payments could be made, and creating a

permanent scheme is considered undesirable. A new appeal structure may be required to resolve cases where there is disagreement between taxpayers and the relevant grant body.

6.4 Options Summary. Option 2 is preferred on the grounds of the balance of advantage over disadvantage.

## 7. Costs and Benefits

### Option 1 – Retain Current Regulations

7.1.1 Costs. As with the other options, while actual future costs are not fully known, for option 1, the costs framework and categories would remain unchanged.

7.1.2 Benefits. UK Government (UKG) funding to support Welsh Government to address fire safety defects is already established, via the block grant.

7.1.3 Option 1 Summary. As costs are not fully known, and therefore a cost-benefit analysis can only be estimated, this option is seen as sub-optimal, as further benefits to taxpayers are sought than those offered by this option.

### Option 2 – Make New Regulations to Allow for Extensions in Defined Situations

7.2.1 Costs. Cost categories are likely to be the following,

- WRA administrative costs,
- Possible tribunal and appeals activity (very few anticipated),
- Refunds of LTT higher residential rates elements – potential marginal impact on LTT revenue streams which contribute to the Welsh Consolidated Fund, and
- Costs to taxpayers, conveyancers and other advisers.

7.2.2 Refunds. Existing UKG funding arrangements via the block grant, with regard to addressing fire safety defects, are expected to remain unchanged. As no register of potentially affected properties exists, costs are estimated here on the basis of known and potential cases which may give rise to refund claims. The WRA estimates known and likely refunds may cost up to £0.75m, over successive financial years. The timeframe is uncertain, as it is associated with the time required for remediation and sale of properties affected by fire safety defects. Only PBS refund cases in relation to fire safety defects are likely to have an immediate impact on costs.

Average refund	£15,000
Cases estimated (over 3 years)	50
Estimated overall cost	£750,000

7.2.3 The new provision will have implications for the WRA's management of claims. The WRA expects the volume of claims to be low, and the work to be accommodated within the WRA's existing approach to claims and its operational framework.

7.2.4 [*Transaction costs. This section will be revised following the public consultation.*]

7.2.5 Benefits. In relation to taxpayers in the PBS Refund scenario, the average LTT higher residential rates refund is around £15,000. This is likely also to be the average cost saving for taxpayers in the SBP exception scenario who claim an extension to the exemption period. As the process for claiming a refund, or paying the main residential rates on a purchase are within the LTT regime, the taxpayers' appeal rights are set out in the current Welsh Tax Acts.

7.2.6 Option 2 Summary. The benefits justify the likely costs.

### Option 3 – A Grant Scheme

7.3.1 Costs. Cost categories are likely to be the following,

- Establishment and operation of the scheme,
- Communication and education activity to raise awareness among taxpayers, agents, etc,
- Funding to pay grants.

7.3.2 Establishment and operations. Considerable cost would be involved in establishing and operating the rigorous administration required for such a scheme, potentially involving WRA processes, whether the WRA or another body were to be responsible for its administration. Involvement of several other government bodies may be required. There may also be costs associated with statutory reporting.

7.3.3 Communication and raising awareness. Costs have not been estimated, on the basis that likely establishment and operational costs alone render this option unfavourable.

7.3.4 Funding. The eventual cost of grants, which would depend on the numbers of eligible taxpayer applications, would be expected to match the estimated cost of refunds as discussed in relation to option 2. A grant process would require a robust appeal process where an applicant believes that they are entitled to a refund or exception. The cost and benefit ratio of establishing, and eventually winding down, such an appeals process has not been determined but it is considered to be more costly than beneficial.

7.3.5 Benefits. Taxpayers would be able to obtain fairer tax treatment as in option 2.

7.3.6 Option 3 Summary. The anticipated level of cost suggests this option is likely to be more costly than justified by the benefits it would afford. The uncertainty regarding anticipated and developing costs also makes this a less favourable option.

### Costs and Benefits Summary.

7.7 Option 2 is preferred on the grounds of cost and benefit.

## **8. Competition Assessment**

8.1 The new regulations may introduce requirements for businesses to change practices, with the potential to incur cost, however the new regulations do not introduce prejudice or favour to any sector or individual business. Therefore, it is not considered that the Regulations will affect competition.

## 9. Post-Implementation Review

*[This section will be updated post consultation.]*