

## **Explanatory Memorandum to The Welsh Tax Acts etc. (Power to Modify) Act 2022 (Extension of Expiry Date) Regulations 2026**

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.

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

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Welsh Tax Acts etc. (Power to Modify) Act 2022 (Extension of Expiry Date) Regulations 2026. I am satisfied that the benefits justify the likely costs.

**Mark Drakeford MS**  
**Cabinet Secretary for Finance and Welsh Language**  
**24 February 2026**

## **PART 1 – EXPLANATORY MEMORANDUM**

### **1. Description**

- 1.1 The Welsh Ministers are proposing through the Welsh Tax Acts etc. (Power to Modify) Act 2022 (Extension of Expiry Date) Regulations 2026 (the “Regulations”) to extend the period that the Welsh Ministers may exercise the power provided under section 1 of the Welsh Tax Acts etc. (Power to Modify) Act 2022 (the “2022 Act”) to make regulations to effect changes the Welsh tax legislation listed in section 1(3) of the 2022 Act (the “Welsh Tax Acts”).
- 1.2 The Regulations extend the period that regulations may be made by the Welsh Ministers using the power in the section 1 of the 2022 Act from 9 September 2027 to 30 April 2031. Further extensions are not possible; the extension may be made only once and to no later than 30 April 2031.

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

- 2.1 None.

### **3. Legislative Background**

- 3.1 Section 1(1) of the 2022 Act provides the Welsh Ministers with a regulation making power to modify the Welsh Tax Acts if they consider that the modifications are necessary for the purposes set out in section 1(1)(a) to (d) of the 2022 Act:
- a. ensuring that landfill disposals tax or land transaction tax is not imposed where to do so would be incompatible with any international obligations;
  - b. protecting against tax avoidance in relation to landfill disposals tax or land transaction tax;
  - c. responding to a change to a predecessor tax that affects, or may affect, the amounts paid into the Welsh Consolidated Fund under section 118(1) of the Government of Wales Act 2006;
  - d. responding to a decision of a court or tribunal that affects, or may affect, the operation of any of the Welsh Tax Acts or regulations made under any of those Acts.
- 3.2 Section 7(1) of the 2022 Act provides that the regulation making power under section 1 of the 2022 Act expires at the end of the period of five years beginning with the day on which the 2022 Act came into force. The 2022 Act received Royal Assent on 8 September 2022 and came into force on 9 September 2022

(section 9 of the 2022 Act) and the power under section 1 of the 2022 Act expires on 8 September 2027.

- 3.3 Section 7(2) of the 2022 Act provides the Welsh Ministers with a regulation making power to extend the expiry date of the section 1 regulation making power, subject to the following conditions being met:
- the power is exercisable once only and by statutory instrument (section 7(3) of the 2022 Act),
  - that a draft of the statutory instrument may not be laid before Senedd Cymru before the conclusions of the review under section 6 of the 2022 Act have been published (section 7(5)(a) of the 2022 Act), and
  - a draft of the statutory instrument may not be approved by Senedd Cymru after 8 September 2027 (section 7(5)(b) of the 2022 Act).
- 3.4 Regulations under section 7(2) are to be made by the Senedd Approval Procedure.
- 3.5 These conditions have been met as; the section 7(2) regulation making power has not been previously exercised, the conclusions of the review under section 6 of the 2022 Act were published on 13 February 2026, and the Regulations will be considered for approval by Senedd Cymru before 8 September 2027.

#### **4. Purpose and Intended Effect of the Legislation**

- 4.1 The aim of the Regulations, subject to Senedd consent, is to ensure that regulation making power in section 1 of the 2022 Act is available to be used by the Welsh Ministers until 30 April 2031. This will provide time when the section 1 power in the 2022 Act will remain available to the future Welsh Governments and Senedd to establish what approach they wish to take to make changes to the Welsh Tax Acts. The Welsh Ministers review of the purpose and effect of the 2022 Act and the potential alternative legislative mechanism is a first step. The extension to the expiry date of the regulation making power in section 1 of the 2022 Act will mean that the next Welsh Government will therefore be able to quickly and flexibly make changes if the need should arise.
- 4.2 The Explanatory Memorandum<sup>1</sup> that was published when the Bill was introduced (and amended following Stage 2 of the 2022 Act's passage through the Senedd) provides greater detail on the purpose and effect of the 2022 Act.
- 4.3 In summary, the power provided by section 1 of the 2022 Act is intended to provide the Welsh Ministers, subject to Senedd approval, with the ability to

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<sup>1</sup> [Explanatory Memorandum, revised after stage 2.pdf](#)

introduce changes with near immediate effect to address the four situations listed in paragraph 3.1 above.

## 5. Consultation

- 5.1 A Welsh Government consultation<sup>2</sup> on 8 September 2025 sought views on the appropriate mechanisms for making changes to the Welsh Tax Acts. Whilst the questions asked were largely to help inform the Welsh Ministers review of the 2022 Act under section 6(1) of that Act, a specific question was asked as to whether the section 1 of the 2022 Act (referred to in the Consultation as a sunset clause) should be extended to 30 April 2031 or another (earlier) date. In preparing the review the Welsh Ministers sought the views of the Senedd in several ways.
- 5.2 The consultation indicated that there was there was broad support amongst the tax professional bodies for the power in section 1 of the 2022 Act to be extended to 30 April 2031. Whilst the ICAEW (the Institute of Chartered Accountants in England and Wales) and CIOT (the Chartered Institute of Taxation) were supportive of a primary legislation route to make changes to the Welsh Tax Acts, they also saw merit in the extension, with ICAEW commenting "*an extension may be justified to provide the necessary time to consult and develop an alternative approach.*" CIOT commented that "*extending the sunset clause for the regulatory power provided by the 2022 Act to 30 April 2031 offers a mechanism to allow the process to be kept under review.*" Conversely, most members of the public who addressed the specific question did not consider that the expiry date of the power in section 1 of the 2022 Act should be extended.
- 5.3 A summary of responses was published on [13 February 2025](#).
- 5.4 A public consultation was not undertaken on the draft Regulations.

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<sup>2</sup> [Views on the Appropriate Mechanisms for Making Changes to the Welsh Tax Acts](#)

## PART 2 – REGULATORY IMPACT ASSESSMENT (RIA)

### 6. Options

#### **Option 1 – Do not provide an extension to the expiry date of the power in the section 1 of the 2022 Act – No Change**

- 6.1 The Regulations would not be required and the last possible date for making regulations under section 1 of the 2022 Act would remain 8 September 2027.
- 6.2 **Advantages** – the Welsh Government cannot identify an advantage by not extending the expiry date of the power provided in section 1 of the 2022 Act.
- 6.3 **Disadvantages** – In the event that there was a need to respond to one of the four situations for which the power in section 1 of the 2022 Act may be used then it is possible that the change could not be made with immediate effect, unless an emergency bill process was used, or the effect of the changes in such a bill were to be effective retrospectively.

#### **Option 2 – provide an extension to 30 April 2031 of the expiry date of the power in section 1 of the 2022 Act**

- 6.4 The Regulations would be made extending the last possible date for making regulations under section 1 of the 2022 Act to 30 April 2031.
- 6.5 **Advantages** – this option will enable the Welsh Ministers, subject to Senedd approval, to continue to have additional powers provided by the 2022 Act to protect the revenues generated by the Welsh Tax Acts or to expedite the delivery of enhancements to the taxes which benefit Welsh taxpayers. This will give the next Senedd and Welsh Ministers time to develop any new mechanisms for making changes to the Welsh Tax Acts, including passing any primary legislation to support that mechanism with a new approach for the future.
- 6.6 **Disadvantages** – the Welsh Government cannot identify a disadvantage from extending the expiry date of the power provided in section 1 of the 2022 Act.

#### **Options Summary**

- 6.7 Option 2 is preferred.
- 6.8 Option 2 maintains the current position for a further five years from the current expiry date to provide the next Welsh Government and Senedd with the time to fully develop a new approach.

## 7. Costs and Benefits

There is more detail on the costs and benefits on the use of the power provided by the 2022 Act Explanatory Memorandum<sup>3</sup> (pages 25 to 29).

### **Option 1 – do not extend the regulation making power in section 1 of the 2022 Act – No Change**

- 7.1 **Costs** – there will be no direct costs from this option. However, if there is a need to make changes (before any new mechanisms come into effect and the regulation making power has expired) and regulations made using the section 1 of the 2022 Act power would be the best option, then it may mean that the introduction of any changes is delayed.

### **Option 2 – provide an extension to 30 April 2031 of the expiry date of the power in section 1 of the 2022 Act**

- 7.2 **Costs** - there will be no direct costs from this option. Any future costs will depend on whether the regulation making power is used and the nature of any changes made. If there is a need to make changes, and the power in section 1 of the 2022 Act would be the best option and the power remains available due to the extension of the expiry date provided by the Regulations, then it may mean that the introduction of those changes occurs at the most appropriate time. If regulations are made using the power in section 1 of the 2022 Act, then an explanatory memorandum and regulatory impact assessment will accompany those regulations.
- 7.3 **Option 2 Summary** – There are no direct costs from either option. The benefits arise from the continued opportunities that may arise from the power in section 1 of the 2022 Act to make regulations remaining available in the extended expiry period. This is especially the case during the period before any new mechanism has been developed by the next Welsh Government and Senedd (should they so choose).

## 8. Integrated Impact Assessment

- 8.1 An Integrated Impact Assessment (IIA) has not been undertaken for the Regulations. As the Regulations only extend the expiry date of the section 1 of the 2022 Act power and make no other changes to the operation of the 2022 Act the IIA completed for the 2022 Act<sup>4</sup> remains valid (pages 44 to 48).

## 9. Competition Assessment

- 9.1 The Welsh Ministers consider that a full Competition Assessment is not required for the Regulations, as demonstrated by the result of a Competition Filter Test (see Table A, below). If any regulations are made using the power in section 1 of the 2022 Act, then a competition assessment would be made

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<sup>3</sup> [Explanatory Memorandum, revised after stage 2.pdf](#)

<sup>4</sup> [Explanatory Memorandum, revised after stage 2.pdf](#)

based on the effect of those regulations.

- 9.2 There are two stages to a full Competition Assessment. The first, the competition filter test, assesses whether there is a risk of significant detrimental effect on competition. The filter test result, set out below in Table A indicates there is no anticipated significant impact on competition and therefore the risk of significant detrimental impact on competition is low. As the filter test suggests, the second stage of the competition assessment (which comprises a fuller assessment) has not been conducted.

Table A - Competition Filter Test

1. In the market(s) affected by the new regulation, does any firm have more than 10% market share?	No
2. In the market(s) affected by the new regulation, does any firm have more than 20% market share?	No
3. In the market(s) affected by the new regulation, do the largest three firms together have at least 50% market share?	No
4. Would the costs of the regulation affect some firms substantially more than others?	No
5. Is the regulation likely to affect the market structure, changing the number or size of firms?	No
6. Would the regulation lead to higher set-up costs for new or potential suppliers that existing suppliers do not have to meet?	No
7. Would the regulation lead to higher ongoing costs for new or potential suppliers that existing suppliers do not have to meet?	No
8. Is the sector characterised by rapid technological change?	No
9. Would the regulation restrict the ability of suppliers to choose the price, quality, range or location of their products?	No

## 10. Post-Implementation Review

- 10.1 Post-implementation monitoring will occur to identify when the power in section 1 of the 2022 Act is exercised by the Welsh Ministers.