



# Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017

2017 anaw 1

## PART 6

### RETURNS AND PAYMENTS

PROSPECTIVE

#### CHAPTER 1

##### RETURNS

###### *Duty to make return*

#### **44 Duty to make a return**

- (1) The buyer in a notifiable land transaction must make a return to WRA.
- (2) A return made under this section must—
  - (a) be made before the end of the period of 30 days beginning with the day after the effective date of the transaction, and
  - (b) if the transaction is a chargeable transaction, include a self-assessment.
- (3) In this Act, “self-assessment” in relation to a return, means an assessment of the amount of tax that, on the basis of the information contained in that return, is chargeable in respect of the transaction.

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### *Notifiable transactions*

#### **45 Notifiable transactions**

- (1) For the purposes of this Act, a land transaction is notifiable if it is—
  - (a) an acquisition of a major interest in land (see section 68) that does not fall within one of the exceptions listed in section 46,
  - (b) an acquisition of a chargeable interest, other than a major interest in land, if—
    - (i) it is not exempt from charge as provided for in Schedule 3, and
    - (ii) tax is chargeable at a rate of more than 0%, or would be so chargeable but for a relief listed in section 30, in respect of any part of the chargeable consideration for the transaction,
  - (c) a land transaction that a person is treated as entering into by virtue of section 11(3)(contract providing for transfer to third party), or
  - (d) a notional or additional notional land transaction within the meaning given in paragraph 8(1) and (3) of Schedule 2.
- (2) This section has effect subject to—
  - (a) section 10(5) (contract and transfer),
  - (b) paragraph 18(5) of Schedule 4 (arrangements involving public or educational bodies),
  - (c) paragraph 44(1) of Schedule 7 (transfer of partnership interest), and
  - (d) paragraph 2(6) of Schedule 10 (alternative property finance).

#### **46 Exceptions for certain acquisitions of major interests in land**

- (1) The exceptions referred to in section 45 are as follows.
- (2) A transaction which is exempt from charge as provided for in Schedule 3.
- (3) An acquisition other than the grant, assignment or surrender of a lease where the chargeable consideration, together with the chargeable consideration for any linked transactions, is less than £40,000.
- (4) The grant of a lease for a term of less than 7 years, where the chargeable consideration does not exceed the zero rate threshold.
- (5) The assignment or surrender of a lease where—
  - (a) the lease was originally granted for a term of less than 7 years, and
  - (b) the chargeable consideration for the assignment or surrender does not exceed the zero rate threshold.
- (6) The grant of a lease for a term of 7 years or more where—
  - (a) the chargeable consideration other than rent is less than £40,000, and
  - (b) the relevant rent is less than £1,000.
- (7) The assignment or surrender of a lease where—
  - (a) the lease was originally granted for a term of 7 years or more, and
  - (b) the chargeable consideration for the assignment or surrender is less than £40,000.

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- (8) Chargeable consideration for an acquisition exceeds the zero rate threshold if it includes —
- (a) any amount in respect of which tax is chargeable at a rate of more than 0%, or
  - (b) any amount in respect of which tax would be so chargeable but for a relief listed in section 30(2) or (3).
- (9) In subsection (6), ““relevant rent”” means—
- (a) the annual rent (as defined in paragraph 36(2) of Schedule 6), or
  - (b) in the case of the grant of a lease to which paragraph 31 of Schedule 7 applies, the relevant chargeable proportion of the annual rent (as calculated in accordance with that paragraph).
- (10) The Welsh Ministers may by regulations amend subsection (3), (6) or (7) so as to substitute for an amount for the time being specified there a different amount.

### *Adjustments*

#### **47 Contingency ceases or consideration is ascertained: duty to make return**

- (1) The buyer in a land transaction must make a return to WRA if—
- (a) section 19 or 20 (contingent, uncertain or unascertained consideration) applies in relation to the transaction, or to any transaction in relation to which the transaction is a linked transaction,
  - (b) an event mentioned in subsection (2) occurs, and
  - (c) the effect of the event is that—
    - (i) the transaction becomes notifiable,
    - (ii) additional tax is payable in respect of the transaction, or
    - (iii) tax is payable in respect of the transaction where none was payable.
- (2) The events are—
- (a) in the case of contingent consideration, the contingency occurs or it becomes clear that it will not occur, or
  - (b) in the case of uncertain or unascertained consideration, an amount relevant to the calculation of the consideration, or any instalment of consideration, becomes ascertained.
- (3) A return made under this section must—
- (a) be made before the end of the period of 30 days beginning with the day after the day on which the event mentioned in subsection (2) occurred, and
  - (b) include a self-assessment.
- (4) Despite section 157(3) of TCMA (late payment interest), the late payment interest start date in relation to an amount—
- (a) stated in a return made under this section as the tax payable,
  - (b) payable as a result of an amendment or correction to such a return,
  - (c) payable as a result of an assessment made in addition to such a return, or
  - (d) payable as a result of a determination or an assessment made in place of such a return,

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is the day after the end of the period of 30 days beginning with the day after the effective date of the transaction (and Chapter 1 of Part 6 of that Act is to be read accordingly).

- (5) The Welsh Ministers may by regulations amend subsection (4) so as to substitute for the period for the time being specified there, a different period.
- (6) This section does not apply in so far as the chargeable consideration consists of—
  - (a) rent (see Schedule 6);
  - (b) an annuity to which section 21 applies.

#### **48 Contingency ceases or consideration ascertained: repayment of tax**

- (1) Subsection (2) applies in relation to a land transaction if—
  - (a) section 19 or 20 (contingent, uncertain or unascertained consideration) applies in relation to the transaction, or to any transaction in relation to which the transaction is a linked transaction,
  - (b) an event mentioned in section 47(2) occurs (“the relevant event”), and
  - (c) the effect of the relevant event is that there is less tax payable in respect of the transaction than the buyer has already paid in accordance with the return made for the transaction (“the land transaction return”).
- (2) In order to obtain a repayment of the amount of tax overpaid, the buyer in the land transaction may—
  - (a) within the period allowed for amendment of the land transaction return, amend the return accordingly (see section 41 of TCMA);
  - (b) after the end of that period (if the return is not so amended), make a claim for repayment of the amount overpaid in accordance with Chapter 7 of Part 3 of TCMA as modified by subsection (3).
- (3) In its application to a claim to which subsection (2)(b) applies, Chapter 7 of Part 3 of TCMA applies as if for section 78 there were substituted—

#### **“78 Time limit for making claims**

A claim under section 63 to which section 48(2)(b) of LTTA applies must be made before the later of the end of—

- (a) the period of 4 years beginning with the day after the filing date for the tax return to which the land transaction tax already paid relates, or
  - (b) the period of 12 months beginning with the relevant event (within the meaning given in section 48(1)(b) of LTTA).”
- (4) But where the transaction (“the relevant transaction”) is the grant or assignment of a lease, no claim may be made under subsection (2)—
    - (a) in respect of the repayment (in whole or in part) of any loan or deposit that is treated by virtue of paragraph 19 of Schedule 6 as being consideration given for the relevant transaction, or
    - (b) in respect of the refund of any of the consideration given for the relevant transaction, in a case where the refund—
      - (i) is made under arrangements that were made in connection with the relevant transaction, and

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(ii) is contingent on the termination or assignment of the lease or on the grant of a chargeable interest out of the lease.

- (5) This section does not apply—
- (a) so far as the consideration consists of rent (see Schedule 6);
  - (b) where section 21 (annuities) applies.

#### **49 Further return where relief is withdrawn**

- (1) The buyer in a land transaction must make a further return to WRA if relief is withdrawn to any extent under—
- (a) Schedule 11 (alternative finance investment bonds);
  - (b) Schedule 14 (relief for certain acquisitions of residential property);
  - (c) Schedule 16 (group relief);
  - (d) Schedule 17 (reconstruction or acquisition relief);
  - (e) Schedule 18 (charities relief).
- (2) A return made under this section must—
- (a) be made before the end of the period of 30 days beginning with the day after the day on which the disqualifying event occurred, and
  - (b) include a self-assessment.
- (3) The disqualifying event is—
- (a) in relation to the withdrawal of relief under Schedule 11, an event mentioned in paragraph 14 of that Schedule;
  - (b) in relation to the withdrawal of relief for certain acquisitions of residential property under Schedule 14, an event mentioned in paragraph 8(1), (3) or (4) of that Schedule;
  - (c) in relation to the withdrawal of group relief under Schedule 16, the buyer ceasing to be a member of the same group as the seller within the meaning of that Schedule;
  - (d) in relation to the withdrawal of reconstruction relief or acquisition relief under Schedule 17, an event mentioned in paragraph 5(2) or 7(2) or (3) of that Schedule;
  - (e) in relation to the withdrawal of charities relief under Schedule 18, a disqualifying event as defined in paragraph 2(4), 5(2) or 8(2) of that Schedule.
- (4) Despite section 157(3) of TCMA (late payment interest), the late payment interest start date in relation to an amount—
- (a) stated in a return made under subsection (1)(a) as the tax payable,
  - (b) payable as a result of an amendment or correction to such a return,
  - (c) payable as a result of an assessment made in addition to such a return, or
  - (d) payable as a result of a determination or an assessment made in place of such a return,

is the day after the end of the period of 30 days beginning with the day after the effective date of the first transaction (and Chapter 1 of Part 6 of that Act is to be read accordingly).

- (5) The Welsh Ministers may by regulations amend subsection (4) so as to substitute for the period for the time being specified there, a different period.

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## **50 Single return in respect of linked transactions with same effective date**

- (1) Where there are two or more linked transactions with the same effective date the buyer, or all of the buyers if there is more than one, may make a single return as if all of those transactions were a single notifiable transaction.
- (2) Where two or more buyers make a single return in respect of linked transactions, sections 37 to 40 apply as if—
  - (a) the transactions in question were a single transaction, and
  - (b) those buyers were buyers acting jointly.

## **51 Return as a result of later linked transaction**

- (1) This section applies where the effect of a transaction (“the later transaction”) that is linked to an earlier transaction is that—
  - (a) the earlier transaction becomes notifiable,
  - (b) additional tax is chargeable in respect of the earlier transaction, or
  - (c) tax is chargeable in respect of the earlier transaction where none was chargeable before.
- (2) The buyer in the earlier transaction must make a return in respect of that transaction.
- (3) A return made under this section must—
  - (a) be made before the end of the period of 30 days beginning with the day after the effective date of the later transaction, and
  - (b) include a self-assessment.
- (4) This section does not affect any requirement to make a return in respect of the later transaction.

## **52 Power to amend period in which returns must be made**

- (1) The Welsh Ministers may by regulations amend a provision listed in subsection (2) so as to substitute for the period for the time being specified there, a different period.
- (2) The provisions are—
  - (a) section 44(2)(a);
  - (b) section 47(3)(a);
  - (c) section 49(2)(a);
  - (d) section 51(3)(a);
  - (e) paragraph 24(4)(a) of Schedule 5;
  - (f) paragraph 3(4) of Schedule 6;
  - (g) paragraph 5(5) of that Schedule;
  - (h) paragraph 13(1) of that Schedule.

### *Declarations*

## **53 Declaration**

- (1) A return under this Act must include a declaration by the buyer that the return is, to the best of the buyer's knowledge, correct and complete.

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- (2) But where—
- (a) the buyer authorises an agent to complete the return,
  - (b) the buyer makes a declaration that, with the exception of the relevant date, the information provided in the return is to the best of the buyer's knowledge, correct and complete, and
  - (c) the return includes a declaration by the agent that the relevant date provided in the return is to the best of the agent's knowledge correct,
- the requirement in subsection (1) is deemed to be met.
- (3) The relevant date is—
- (a) in relation to a return under section 47, the date of the event as a result of which the return is required,
  - (b) in relation to a return under section 49, the date on which the disqualifying event occurred,
  - (c) in relation to a return under section 51, the effective date of the later transaction,
  - (d) in relation to a return under paragraph 24 of Schedule 5, the date on which the interim period that applies in accordance with paragraph 9(5) or 18(5) of that Schedule ended, and
  - (e) in relation to a return made under any other provision of this Act, the effective date of the transaction.
- (4) Nothing in subsection (2) affects the liability of the buyer under this Act or TCMA.

#### **54 Buyer with a disability: declaration by the Official Solicitor**

- (1) Where—
- (a) a buyer in a land transaction is disabled,
  - (b) the Official Solicitor is acting for that buyer, and
  - (c) the return includes a declaration by the Official Solicitor that the return is to best of the Official Solicitor's knowledge correct and complete,
- the requirement in section 53 is deemed to be met.
- (2) Nothing in this section affects the liability of the buyer under this Act or TCMA.
- (3) For the purposes of this section, a person is disabled if they have a disability for the purposes of the Equality Act 2010 (c. 15).
- (4) In this section, the ““Official Solicitor”” means the Official Solicitor to the Senior Courts.

#### **55 Declaration by person authorised to act on behalf of individual**

- (1) This section applies to a declaration mentioned in section 53 that a return is correct and complete.
- (2) Where the buyer is an individual, the requirement that the buyer make such a declaration (alone or jointly with others) is treated as met if a declaration to that effect is made by a person authorised to act on behalf of that individual in relation to the matters to which the return or certificate relates.

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- (3) For the purposes of this section a person (“P”) is not regarded as authorised to act on behalf of an individual unless P is so authorised by a power of attorney in writing, signed by that individual.
- (4) This section does not apply where an individual is acting in accordance with section 33 (persons through whom a company acts)—
  - (a) as the proper officer of a company, or
  - (b) otherwise on behalf of a company.

PROSPECTIVE

## CHAPTER 2

### LIABILITY FOR AND PAYMENT OF TAX

#### *Liability for tax*

#### **56 Liability for tax**

- (1) The buyer in a chargeable transaction must pay the tax in respect of that transaction and accordingly the buyer is chargeable to the tax for the purposes of TCMA.
- (2) As to the liability of buyers acting jointly, see—
  - (a) sections 37 to 40 (joint buyers),
  - (b) Schedule 7 (partnerships), and
  - (c) Schedule 8 (trusts).

#### *Payment of tax*

#### **57 Payment of tax**

- (1) Where a buyer in a land transaction makes a return, the buyer must pay any amount, or any additional amount, of tax payable not later than the filing date for the return.
- (2) Where a buyer in a land transaction amends a return in respect of that transaction, the buyer must pay any amount, or any additional amount, of tax payable as a result of that amendment—
  - (a) if the amendment is made by the filing date for that return, not later than that date, and
  - (b) if the amendment is made after the filing date for the return, when the buyer gives notice of the amendment to WRA.
- (3) But see Chapter 3 (deferral of tax).



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PROSPECTIVE

## CHAPTER 3

### DEFERRAL OF TAX

#### 58 Deferral requests in cases of contingent or uncertain consideration

- (1) A buyer in a land transaction where the whole or part of the chargeable consideration is contingent or uncertain (see sections 19 and 20) may give notice to WRA (““a deferral request””) requesting that payment of an amount of tax payable stated in the first return relating to the transaction (““the requested amount””) be deferred.
- (2) But the requested amount may not exceed the deferrable amount (see section 59).
- (3) WRA must agree to a deferral request if—
  - (a) the return and the deferral request are made on or before the filing date for that return,
  - (b) the request—
    - (i) specifies the requested amount to be deferred,
    - (ii) sets out the calculation of the requested amount carried out in accordance with section 59 (including the amount of consideration falling within step 2 of that calculation (““the deferred consideration””)),
    - (iii) sets out the reasons why the deferred consideration is contingent or uncertain and the reasons why it falls to be paid or provided on one or more future dates of which at least one will or may fall more than 6 months after the effective date of the transaction,
    - (iv) proposes an expected end date of the deferral period (see subsection (8)), and
    - (v) contains any other information as may be required by virtue of section 191 of TCMA (giving notices to WRA),
  - (c) WRA is satisfied that the requested amount does not exceed the deferrable amount calculated in accordance with section 59, and
  - (d) the land transaction is not a tax avoidance arrangement nor forms part of arrangements which are tax avoidance arrangements.
- (4) Otherwise WRA must refuse a deferral request (but see subsections (5) and (6)).
- (5) But if WRA thinks that the requested amount exceeds the deferrable amount it may nevertheless grant the deferral request in relation to so much of the requested amount as does not exceed the deferrable amount.
- (6) When agreeing to a deferral request WRA—
  - (a) must determine the amount of tax it agrees to defer (the ““deferred amount””);
  - (b) must determine the expected end date of the deferral period (that may be different to the expected end date proposed by the buyer) (see subsection (8));
  - (c) may impose such conditions (including conditions requiring the buyer to make payments of part of the deferred amount at specified times during the deferral period) as WRA thinks appropriate.

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(7) In this section, “tax avoidance arrangement” has the same meaning as in section 31.

(8) In this Chapter—

- (a) “deferral period” means the period beginning with the filing date for the return referred to in subsection (1) and ending on the earlier of—
  - (i) the expected end date, or
  - (ii) the date on which an event mentioned in subsection (9) occurs in relation to the deferred consideration;
- (b) “expected end date” means—
  - (i) the date on which an event mentioned in subsection (9) is expected to occur in relation to the deferred consideration, or
  - (ii) if that date cannot be predicted, the fifth anniversary of the effective date of the transaction (or, where the expected end date is changed under section 62, the fifth anniversary of the previous expected end date).

(9) The events are—

- (a) where the deferred consideration is contingent, the date on which contingency occurs or it becomes clear that it will not occur;
- (b) where the deferred consideration is uncertain, the date on which the consideration becomes ascertained.

## 59 Calculation of deferrable amount

The deferrable amount in respect of a land transaction to which section 58(1) applies is to be calculated as follows.

*Step 1* Calculate the amount of tax chargeable in respect of the land transaction in accordance with section 27 or 28.

*Step 2* Determine the amount or value of chargeable consideration for the land transaction that—

- (a) has not already been paid or provided,
- (b) is contingent or uncertain (see sections 19 and 20),
- (c) does not consist of—
  - (i) rent (within the meaning given in Schedule 6), or
  - (ii) an annuity to which section 21 applies, and
- (d) falls to be paid or provided on one or more future dates of which at least one will or may fall more than 6 months after the effective date of the transaction.

That amount or value of consideration is the deferred consideration.

*Step 3* Calculate (in accordance with section 27 or 28) the amount of tax that would have been chargeable in respect of the land transaction had the chargeable consideration for the transaction been reduced by the amount or value of the deferred consideration.

*Step 4* Deduct the amount of tax calculated under step 3 from the amount calculated under step 1. The remaining amount of tax is the deferrable amount.

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## **60 Deferral requests: notices of WRA decisions**

- (1) Where WRA agrees to a deferral request, it must issue a notice to the buyer specifying—
  - (a) the deferred amount and, if any, the refused amount,
  - (b) the expected end date of the deferral period,
  - (c) any condition WRA has imposed under section 58(6)(c), and
  - (d) if the deferred amount is lower than the proposed deferred amount, the reasons for that decision.
- (2) Where WRA refuses a deferral request, it must issue a notice to the buyer specifying the reasons for the refusal.

## **61 Deferral requests: effect of WRA's decision**

- (1) Where WRA agrees to a deferral request—
  - (a) the buyer must pay the deferred amount before the end of the day following the date on which the deferral period ends (despite section 57), and
  - (b) despite section 157(3) of TCMA, the late payment interest start date in relation to the deferred amount is the date following the date on which the deferred amount is required to be paid (and Chapter 1 of Part 6 of TCMA is to be read accordingly).
- (2) Where WRA refuses a deferral request (or agrees to a request but agrees a deferred amount which is lower than the requested amount)—
  - (a) the amount of tax which WRA has refused to defer (“the refused amount”) is required to be paid by the end of the later of—
    - (i) the date on which the buyer receives notice of WRA's decision, or
    - (ii) the date on which the amount would otherwise be required to be paid in accordance with section 57, and
  - (b) the late payment interest start date for the refused amount is the later of—
    - (i) the day after the date on which the refused amount is required to be paid, or
    - (ii) the date which would otherwise be specified under section 157(3) of TCMA as the late payment interest start date in relation to that amount.
- (3) See sections 47 and 48 for provision about cases where the amount of tax payable changes as a result of—
  - (a) a contingency occurring or not occurring, or
  - (b) uncertain consideration becoming ascertained.

## **62 Variation of deferral requests**

- (1) Where WRA has agreed to a deferral request, the buyer may give notice to WRA requesting—
  - (a) a change to the expected end date;
  - (b) variation or removal of a condition imposed under section 58(6)(c).
- (2) A request under subsection (1) must specify the change in circumstances which the buyer thinks justifies the change, variation or removal.

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- (3) If WRA thinks it appropriate to do so, it may—
- (a) agree to the request made under subsection (1), or
  - (b) agree to—
    - (i) a different expected end date than that requested under subsection (1) (a);
    - (ii) a different variation of a condition than that requested under subsection (1)(b).
- (4) Where WRA makes a decision under this section it must issue a notice to the buyer setting out the decision and the reasons for it.

### **63 Failure to comply with WRA's agreement to defer**

- (1) If WRA thinks that the buyer—
- (a) has failed to comply with a condition imposed under section 58(6)(c) or varied under section 62, or
  - (b) has, in relation to the deferral request or a request made under section 62(1)—
    - (i) provided false or misleading information, or
    - (ii) withheld information,
- the deferral request is to be treated as if it had never been made (and section 57 of this Act and section 157 of TCMA apply accordingly).
- (2) In such a case WRA must issue a notice to the buyer stating that deferral request is to be treated as if it had never been made and setting out the consequences of that.

### **64 Regulations about deferral of tax**

- (1) The Welsh Ministers may by regulations—
- (a) make provision for the deferral of tax in cases where the deferred consideration consists of rent (within the meaning given in Schedule 6);
  - (b) make provision applying this Chapter (with such modifications as may be specified in the regulations) to cases where the consideration to which a deferral request relates, or any element of that consideration, consists of—
    - (i) the carrying out of works of construction, improvement or repair of a building or other works to enhance the value of land, or
    - (ii) the provision of services (other than the carrying out of such works);
  - (c) make provision for WRA to make variations under section 62 without the buyer giving notice of a request under subsection (1) of that section (whether by agreement with the buyer or by imposition).
- (2) Regulations under subsection (1) may make such modifications of this Act as the Welsh Ministers consider necessary or expedient.

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## CHAPTER 4

### REGISTRATION OF LAND TRANSACTIONS

#### 65 Registration of land transactions

- (1) The Chief Land Registrar (“the Registrar”) may not register, record or otherwise reflect in an entry made in the register of title maintained by the Registrar a notifiable land transaction or a document effecting or evidencing such a transaction unless a WRA certificate is produced with the application to register, record or otherwise reflect the transaction.
- (2) A “WRA certificate” is a certificate issued by WRA stating that a return has been made in respect of the transaction.
- (3) But subsection (1) does not apply in so far as—
  - (a) the notifiable land transaction or a document effecting or evidencing that transaction is required to be registered, recorded or otherwise reflected in an entry made in the register of title without any application to register;
  - (b) the entry registers, records or otherwise reflects an interest or right other than the chargeable interest acquired by the buyer in the land transaction.
- (4) This section does not apply to—
  - (a) a contract which is to be treated as a land transaction by virtue of—
    - (i) section 10(4) (contract and transfer), or
    - (ii) section 11(3) (contract providing for transfer to third party);
  - (b) a notional or additional notional transaction within the meaning given in Schedule 2;
  - (c) an agreement for a lease which is to be treated as a land transaction by virtue of paragraph 20(1) of Schedule 6;
  - (d) a variation of a lease which is to be treated as a land transaction by virtue of paragraph 24(1) or 25(1) of that Schedule.
- (5) The Welsh Ministers may by regulations make provision about WRA certificates.
- (6) Regulations made under subsection (5) may in particular—
  - (a) make provision as to the conditions that must be met before a certificate is issued;
  - (b) make provision about the issue of duplicate certificates;
  - (c) provide for the issue of multiple certificates where a return is made relating to more than one transaction.
- (7) The Registrar—
  - (a) must allow WRA to inspect any certificates produced under this section, and
  - (b) may enter into arrangements for affording WRA other information and facilities for verifying that the requirements of this Act have been complied with.

#### Annotations:

#### Commencement Information

II S. 65(5)(6)(7)(b) in force at 18.10.2017 by S.I. 2017/953, art. 2(h)

**Status:**

This version of this part contains provisions that are prospective.

**Changes to legislation:**

There are currently no known outstanding effects for the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017, PART 6 .