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WELSH STATUTORY INSTRUMENTS

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**2017 No. 1022**

**The Tax Collection and Management  
(Administration) (Wales) Regulations 2017**

**PART 4**

**Resolution of disputes as to whether a document  
is subject to legal professional privilege**

**Application of this Part**

**8.** This Part applies where—

- (a) WRA has issued an information notice to a person to provide information or produce a document—
  - (i) during the course of correspondence; or
  - (ii) during the course of an inspection under Part 4 of the TCM Act, and
- (b) there is a dispute between WRA and the notice recipient as to whether a document which has been requested is subject to legal professional privilege.

**Requirement to provide information and produce documents not in dispute**

**9.** Nothing in this Part affects—

- (a) any requirement under an information notice to provide information or produce a document which is not in dispute; or
- (b) the powers under Part 4 of the TCM Act to inspect premises and other property.

**Procedure where information notice given in correspondence is in dispute**

**10.—(1)** The following procedure applies where there is a dispute falling within regulation 8(a) (i).

(2) On receipt of the information notice, the notice recipient must—

- (a) specify in a list each document required under the information notice which is in dispute, with a description of the nature and contents of that document; and
- (b) serve that list on WRA by the date given in the information notice for producing the document.

(3) But no description of a document is required where such a description would itself give rise to a dispute over privilege.

(4) Within 20 working days of receiving the list referred to in paragraph (2), WRA must notify the notice recipient of any document on the list that it requires to be produced and which it considers is not privileged.

(5) On receipt of notification under paragraph (4), the notice recipient must—

- (a) produce any document which he or she agrees is not privileged; and
  - (b) to the extent that the status of any document remains in dispute, make an application to the tribunal.
- (6) An application under paragraph (5)(b) must be—
- (a) accompanied by a copy of the documents which remain in dispute; and
  - (b) made within a reasonable time to be agreed between the notice recipient and WRA, but in any event no later than 20 working days after the date of the notification given by WRA under paragraph (4).

### **Procedure where information notice given during inspection of premises is in dispute**

**11.**—(1) The following procedure applies where there is a dispute falling within regulation 8(a) (ii).

- (2) On receipt of the information notice, the notice recipient must—
- (a) indicate to WRA each document required under the information notice which is in dispute; and
  - (b) place any document in dispute in an appropriate container which prevents the contents being visible.
- (3) The container must be—
- (a) sealed, labelled and signed by the notice recipient;
  - (b) countersigned by WRA; and
  - (c) retained by WRA.
- (4) Within 42 working days of receiving the container, WRA must—
- (a) deliver the container to the tribunal with the seal intact together with an application to the tribunal; and
  - (b) send a copy of that application to the notice recipient.

### **Compliance with information notice**

**12.** Where a notice recipient complies with the procedure set out in this Part, that person is to be treated as having complied with the information notice in relation to any document in dispute until the tribunal determines the status of the document or until an agreement has been reached under regulation 14.

### **Finding of the tribunal**

- 13.**—(1) When an application is made under regulation 10(5)(b) or 11(4), the tribunal must—
- (a) resolve the dispute by confirming whether and to what extent the document is or is not privileged; and
  - (b) direct which part or parts of a document (if any) must be disclosed.
- (2) The tribunal must ensure that any document in dispute is not inappropriately disclosed to any person pending the tribunal's determination.

### **Resolution of disputes by agreement**

**14.** A dispute falling within this Part may be resolved at any time by WRA and the notice recipient reaching an agreement, whether in writing or otherwise.