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WELSH STATUTORY INSTRUMENTS

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**2018 No. 88 (W. 21)**

**TAXES, WALES**

**The Tax Collection and Management (Reimbursement Arrangements) (Wales) Regulations 2018**

<i>Made</i>	- - - -	<i>24 January 2018</i>
<i>Laid before before the National Assembly for Wales</i>	- -	<i>29 January 2018</i>
<i>Coming into force</i>	- -	<i>1st April 2018</i>

The Welsh Ministers make the following Regulations in exercise of the powers conferred on them by sections 66, 69 and 188 of the Tax Collection and Management (Wales) Act 2016<sup>(1)</sup>.

**Title and commencement**

1.—(1) The title of these Regulations is the Tax Collection and Management (Reimbursement Arrangements) (Wales) Regulations 2018.

(2) These Regulations come into force on 1 April 2018.

**Interpretation**

2. In these Regulations—

- “the Act” (“*y Ddeddf*”) means the Tax Collection and Management (Wales) Act 2016;
- “claim” (“*hawliad*”) means a claim made under section 63(2) of the Act;
- “reimbursement arrangements” (“*trefniadau talu’n ôl*”) means any arrangements for the purposes of a claim which—
- are made by a claimant for the purpose of securing that the claimant is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
  - provide for the reimbursement of persons (“customers”) who have, for practical purposes, borne the whole or any part of the cost of the original payment of that amount to WRA;
- “relevant amount” (“*swm perthnasol*”) means that part (which may be the whole) of the amount of a claim which the claimant has reimbursed or intends to reimburse to customers; and
- “WRA” (“*ACC*”) means the Welsh Revenue Authority.

### **Reimbursement arrangements – general**

3. For the purposes of section 64 of the Act (disallowing claims for relief due to unjustified enrichment) reimbursement arrangements made by a claimant must be disregarded except where they—

- (a) include the provisions described in regulation 4; and
- (b) are supported by the undertakings described in regulation 7.

### **Reimbursement arrangements – provisions to be included**

4. The provisions referred to in regulation 3(a) are that—

- (a) reimbursement for which the arrangements provide will be completed by no later than 90 days after the repayment to which it relates;
- (b) no deduction will be made from the relevant amount by way of fee or charge (howsoever expressed or effected);
- (c) reimbursement will be made only in cash or by cheque or, with the agreement of the claimant, by electronic transfer;
- (d) any part of the relevant amount that is not reimbursed by the time mentioned in paragraph (a) will be repaid by the claimant to WRA;
- (e) any interest paid by WRA on any relevant amount repaid by it will also be treated by the claimant in the same way as the relevant amount falls to be treated under paragraphs (a) and (b); and
- (f) the claimant will keep the records described in regulation 6.

### **Repayments to WRA**

5. The claimant must, without prior demand, make any repayment to WRA that the claimant is required to make by virtue of regulation 4(d) and (e) within 30 days of the end of the period of 90 days referred to in regulation 4(a).

### **Records**

6.—(1) The claimant must keep records of the following matters—

- (a) the names and addresses of those customers whom the claimant has reimbursed or whom the claimant intends to reimburse;
- (b) the total amount reimbursed to each such customer, including in all cases receipts from those reimbursed acknowledging how much has been reimbursed and giving the date of reimbursement;
- (c) the amount of interest included in each total amount reimbursed to each customer; and
- (d) the date that each reimbursement is made.

(2) Section 69(2) of the Act applies to records kept under paragraph (1) as it applies to records kept under that section.

### **Undertakings**

7.—(1) The undertakings referred to in regulation 3(b) must be given to WRA by the claimant before or at the time at which the claimant makes the claim for which the reimbursement arrangements have been made.

(2) The undertakings must be in writing, be signed and dated by the claimant, and be to the effect that—

- (a) at the date of the undertakings the claimant is able to identify the names and addresses of those customers whom the claimant has reimbursed or whom the claimant intends to reimburse;
- (b) the claimant will apply the whole of the relevant amount, without any deduction by way of fee or charge or otherwise, to the reimbursement of such customers no later than 90 days after the claimant's receipt of that amount (except insofar as the claimant has already so reimbursed them);
- (c) the claimant will apply any interest paid to the claimant on the relevant amount wholly to the reimbursement of such customers no later than 90 days after the claimant's receipt of that interest;
- (d) the claimant will repay to WRA without demand the whole or such part of the relevant amount repaid to the claimant or of any interest paid to the claimant as the claimant fails to apply in accordance with the undertakings mentioned in sub-paragraphs (b) and (c), within 30 days of the end of the period of 90 days referred to in those sub-paragraphs; and
- (e) the claimant will keep the records described in regulation 6.

(3) The claimant must submit to WRA an amended undertaking (to reflect the amendment) within 14 days of—

- (a) the claimant amending a claim under section 71(1) of the Act; or
- (b) WRA amending a claim under section 75(2)(b) of the Act.

## **Penalties**

8.—(1) The provisions in sections 143 to 145 of the Act (penalties relating to record-keeping and reimbursement arrangements) apply to a failure to comply with regulation 6 as they apply to a failure to comply with section 69 of the Act.

(2) A claimant who fails to comply with regulation 5 is liable to a penalty of 100% of the amount of any repayment to WRA that the claimant is required to make by virtue of regulation 4(d) and (e).

(3) Sections 125 to 128 of the Act apply to a penalty under paragraph (2) as they apply to a penalty under section 122 of the Act.

(4) Section 157A of the Act (late payment interest on penalties) does not apply to a penalty under paragraph (2).

(5) Section 154 of the Act (payment of penalties) applies to a penalty under this regulation.

24 January 2018

*Mark Drakeford*  
Cabinet Secretary for Finance, one of the Welsh  
Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations describe the provisions that must be included in reimbursement arrangements made by a person making a claim under section 63 (claim for relief for overpaid tax) of the Tax Collection and Management (Wales) Act 2016 (“the Act”). They come into force on 1 April 2018.

Regulation 2 defines certain terms used in the Regulations.

Regulation 3 provides that reimbursement arrangements must be disregarded for the purposes of section 64 (disallowing claims for relief due to unjustified enrichment) of the Act, unless they comply with regulations 4 and 7.

Regulation 4 describes the detailed provisions that must be included in reimbursement arrangements.

Regulation 5 requires a claimant to repay to the Welsh Revenue Authority any amount which the claimant received in order to reimburse customers, but which the claimant had failed to apply to that purpose within 30 days of receipt of that amount.

Regulation 6 describes the records that the claimant must keep relating to the reimbursement arrangements.

Regulation 7 describes the undertakings that the claimant must give to comply with the claimant’s reimbursement arrangements.

Regulation 8 makes provisions in respect of penalties.

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 cost and benefits of complying with these Regulations. A copy can be obtained from the Welsh Government, Cathays Park, Cardiff CF10 3NQ.