

Welsh Government Response to the draft report on The Landfill Disposals Tax (Administration) (Wales) Regulations 2018

The 'Merits Scrutiny' element of the report makes two points. The Welsh Government's view is that the expressions referred to in the report do not, as a matter of law, need to be defined in the instrument. Section 11 of the Interpretation Act 1978, which applies to subordinate legislation made in England and Wales, provides that "Where an Act confers power to make subordinate legislation, expressions used in that legislation have, unless the contrary intention appears, the meaning which they bear in an Act". Since the expressions referred to in the report are defined in the parent Act, the Interpretation Act 1978 automatically carries those definitions forward into the instrument. We believe that this effect is securely and straightforwardly achieved, without the need for additional explanation.

Indeed, it is possible that the adoption of the approach proposed in the report could introduce a degree of legal uncertainty. These Regulations are subordinate to the parent Act and there are many expressions used in this instrument that are derived from the Act: to seek to define some but not others in this instrument could create uncertainty in relation to the meaning of other expressions used both in the instrument and in the parent Act that are not re-defined. The expressions referred to in the report are accessible and understandable, both in the context of the instrument itself (a footnote referencing the Tax Collection and Management (Wales) Act 2016 is included at Regulation 26 and the full title of the legislation is given in the heading to Regulation 27; and the Welsh Revenue Authority is referred to by its full name in the accompanying Explanatory Note) and, importantly when read alongside the parent Act, as envisaged by the Interpretation Act 1978.