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Consultation on Reforming Land Remediation Relief

Response by the Chartered Institute of Taxation

1. Executive Summary

1.1. Following earlier consultation in which the CIOT actively participated, the government has concluded that Land Remediation Relief (LRR) is not fully achieving its objective of incentivising the remediation and redevelopment of brownfield land. We therefore welcome the consultation on specific reforms to ensure LRR is more closely aligned to the commercial and regulatory realities of brownfield development.

1.2. The proposals address an important area where the policy intent for the relief is undermined: that is, the timing of the relief for housebuilders and developer traders as there can be significant time lags between incurring remediation costs and the point at which relief is available on the final sale of the constructed building or tranche of house sales. There is a consequential lack of visibility of the relief at the point sites are selected and viability assessed.

1.3. However, we are concerned that the proposal to link the scope of LRR to pre-commencement planning conditions to simplify and streamline the process of claiming LRR, could add significant complexity and may prove unworkable. If the objective is to expand the list of eligible contaminants and simplify the claim process, we suggest that would be better achieved by updating the scope of eligible costs for land in a contaminated state and for land in a derelict state, so they are more closely aligned to the common barriers to remediating brownfield land and improve guidance to address grey areas.

1.4. We support the proposal to remove the fixed date requirement (currently 1998) for land that is continuously derelict. We suggest a relatively simple solution is to set a relative date by requiring a site to be derelict for the earlier of (say) 7-10 years from the date works commence or the date of acquisition in a derelict state.

2. About us

2.1. The CIOT is an educational charity, promoting education and study of the administration and practice of taxation. One of our key aims is to work for a better, more efficient, tax system for all affected by it –

taxpayers, their advisers and the authorities. Our comments and recommendations on tax issues are made solely in order to achieve this aim; we are a non-party-political organisation.

2.2. The CIOT's work covers all aspects of taxation, including direct and indirect taxes and duties. Through our Low Incomes Tax Reform Group (LITRG), the CIOT has a particular focus on improving the tax system, including tax credits and benefits, for the unrepresented taxpayer.

2.3. The CIOT draws on our members' experience in private practice, commerce and industry, government and academia to improve tax administration and propose and explain how tax policy objectives can most effectively be achieved. We also link to, and draw on, similar leading professional tax bodies in other countries.

2.4. Our members have the practising title of 'Chartered Tax Adviser' and the designatory letters 'CTA', to represent the leading tax qualification.

3. Introduction

3.1. Following earlier formal[1] and informal consultation in which the CIOT actively participated, the government has concluded that Land Remediation Relief (LRR) is not fully achieving its objective of incentivising the remediation and redevelopment of brownfield land. HM Treasury has launched a further Consultation on Reforming Land Remediation Relief to consider potential cost-effective reforms to ensure LRR is more closely aligned to the commercial and regulatory realities of brownfield development.

3.2. The consultation asks for views on aligning the relief with planning processes, the treatment of derelict land, accelerating the timing of relief, how these proposals should interact if taken forward together and the order of prioritisation of the measures.

3.3. CIOT representatives met with HM Treasury and attended a consultative roundtable on 12 August 2026 to discuss the proposed reforms. This response reflects these discussions where appropriate.

3.4. The government will provide its conclusions at the Budget on 28 October 2026. Any reforms will be set out in legislation in Finance Bill 2026 with changes taking effect 'as soon as practicable'.

3.5. Our objectives for the tax systems that are relevant to the proposed reforms include:

- A legislative process that translates policy intentions into statute accurately and effectively, without unintended consequences.
- Greater simplicity and clarity, so business can understand how much tax they should be paying and why.
- Greater certainty, so businesses and individuals can plan ahead with confidence.
- Responsive and competent tax administration, with a minimum of bureaucracy.

3.6. Most of the questions in the consultation are directed at industry and at those familiar with the planning process - which is outside our remit and expertise. We have therefore set out our comments under each of the consultation proposals from the perspective of our objectives particularly for simplicity and clarity. We have not directly responded to the detailed questions.

[1] The government consulted in 2025 See https://www.tax.org.uk/ref1548 for the consultation and the CIOT's response.

4. Proposed reform 1: Aligning with planning processes

The proposal is to link the scope of LRR to pre-commencement planning conditions or to the presence of a list of contaminants. By aligning with the definitions and the planning permission process used by local authorities, the government believes it can simplify and streamline the process of claiming LRR. The consultation indicates it would potentially allow developers to claim LRR on an expanded list of eligible contaminants – as determined by the local authority under existing planning processes. The government notes that a streamlined list of eligible contaminants and process (much like the existing process) would need to be retained where planning permission is not required.

4.1. Planning processes are outside our remit and area of expertise however our broad concerns with the proposal are:

- We understand that planning conditions are based on risk assessment to support the planning process rather than detailing the scope of remediation works. Therefore, it is not clear to us how the documentation provided by the local authority will form the basis for the LRR claim. Is the intention that the claimant will supplement the local authority discharge notice confirming remediation has taken place with more detail of the works to support the tax relief claim? If so, it would not seem to achieve the objective of simplifying or streamlining the process. It would also risk drawing tax considerations into the planning process.

- We understand there are concerns that using the planning process may restrict the scope of eligible costs rather than expand it as planning permission is granted[2] before all land contamination reports have been approved. It may also add complexity because the definition of contaminated land in CTA 2009 Part 14 diverges from the planning and environmental definitions.

- A list of specified contaminants could provide greater clarity and consistency over the scope of LRR. However, any list should support, rather than displace, the risk-based approach under the National Planning Policy Framework, which requires remediation to make the site suitable for its proposed end use. A rigid list may not reflect site-specific risks, the sensitivity of the intended use or that contamination may be treated on site or excavated and disposed of off-site.

- As the consultation recognises the government's intends remediation resulting from the presence of water and air to remain excluded from LRR. This exclusion remains ambiguous and requires statutory clarification.

- The need to operate dual systems for works that require planning and one for works is not a simplification.

- The timing of the availability of relevant planning documentation to support the LRR claim will need to dovetail with LRR claims for expenditure incurred in an accounting period, noting also the proposed reform to allow accelerated relief for housebuilders and other traders. We understand that documentation discharging planning obligations (such as verification reports to show the remediation works carried out) can be subject to delays and may not be available until completion of the final phase of development, potentially many years after the expenditure was incurred.

[2] We understand that planning permission is granted once the Section 106 agreement is completed, before all land contamination reports have been submitted and approved by the Local Planning Authority and the Environment Agency.

- As the consultation recognises, planning is devolved to Wales, Scotland and Northern Ireland. In addition, we understand that there can be variations between different local authorities in setting planning conditions. We think there is clear potential for divergence and lack of consistency adding complexity for businesses operating across the UK.

4.2. If the objective is to expand the list of eligible contaminants and simplify the claim process, we suggest that would be better achieved by i) updating the scope of eligible costs for land in a contaminated state and for land in a derelict state, so they are more closely aligned to the common barriers to remediating brownfield land and ii) by improving guidance to address grey areas. We identified some common costs that are ineligible in our response[3] to the 2025 consultation. These include:

- Grouting of coal seams and mineshafts arising from previous industrial activity.
- Structures inhibiting development or below ground redundant services.
- 'New' naturally occurring contaminants such as Thaumasite, which attacks concrete and invasive species such as Himalayan Balsam and Giant Hogweed.

5. Proposal: Derelict land

This proposal considers removing the fixed date requirement (currently 1998) for land that is continuously derelict alongside a new definition of derelict land. No reform is intended to the list of qualifying works. The initial definition proposed in the consultation is reproduced below:

> "Land is in a derelict state" if, and only if—
> (a) the land is not in productive use;
> (b) the land cannot be put into productive use without the removal of buildings or other structures on it; and
> (c) those buildings or structures are remnants of previous development or occupation and, by reason of abandonment, redundancy, substantial damage, structural unsoundness, or advanced disrepair, prevent the land from being brought back into productive use.
> For the purposes of this section, land is not to be regarded as in a
> derelict state if—
> (a) it is merely vacant underused, or awaiting redevelopment;
> (b) it is held for future development or disposal by the same economic entity for over 5 years;
> (c) it is capable of productive use without demolition, clearance
> of fixed structures or foundations, or levelling; or
> (d) it is in any economic, social, amenity, ancillary or interim use, including use for parking, storage, access, advertising, open space, or recreation.

[3] Ibid

5.1. It is not clear at what point the conditions for whether land is derelict should be assessed under the definition. Is it, for example, the point of acquisition or the point at which the decision to develop is made, noting that latter date may not be easy to establish in practice with certainty.

5.2. An LRR claim is likely to be considered at the point that development is envisaged. However, the exclusion of (a) for land 'awaiting development' seems to potentially rule out a claim when development is considered. This seems circular and unworkable.

5.3. It is not clear what happens if the land is sold to a third party, does the 5-year clock restart? In any case exclusion (a) and (b) appear to overlap.

5.4. Exclusion (d) rules out any incidental use at all. This is more prohibitive than the current non-statutory 7-day temporary-use exclusion in guidance (CIRD62001). Is temporary use (pending planning consent for example) in fact outside the policy intent such that it should deny relief? We question whether an exclusion is consistent with the policy of increasing the viability of brownfield development. If it is not, exclusion (d) could be expressly linked to condition (a), so that temporary, incidental or de minimis use does not, by itself, mean that the land is in productive use.

5.5. We are concerned that the exact meaning of some terms in the new definition is not clear, for example what is meant by '**remnants** of previous development', '**advanced** disrepair', '**substantial** damage'. Lack of clarity adds complexity and uncertainty and will require detailed guidance (with examples) on what is meant by those terms and may increase clearance requests.

5.6. As we noted in our 2022 submission, a simple solution to the 1998 fixed date is to set a relative date by requiring a site to be derelict for the earlier of (say) 7- 10 years from the date works commence or the date of acquisition in a derelict state. A 10-year period would align with the VAT rules under which, subject to the relevant conditions, eligible work on the conversion of a dwelling that has been empty for at least 10 years may be zero-rated as the construction of a new qualifying dwelling.

5.7. We recognise there could be a risk in this option if land is deliberately allowed to become derelict knowing (or hoping) that relief may be available, a result that would be contrary to the wider policy intent of encouraging derelict land back into use. We suggest that setting the time period for a long enough time should guard against this risk, and a period of between 7-10 years seems long enough to meet that objective.

5.8. In terms of the current definition of land in productive use, the 'continuous use' requirement which disqualifies land on derelict sites from LRR that has been in productive use for more than 7 days a year seems unduly prescriptive and will act an impediment to claiming the relief in circumstances that would otherwise appear to be within the policy intent. This current non-statutory exclusion is set out in guidance at CIRD62001. As noted in our previous submission the further examples at CIRD62005 are not consistent referring to a de minimis of two or three days instead.

5.9. If a temporary or de minimis use exclusion is required, we suggest it is put on a statutory footing and is based on other analogous statutory tests to reduce complexity by aligning definitions across the tax system. In VAT for example, one of the conditions for zero-rating is that a new building must be intended <u>solely</u> for a relevant residential purpose (RRP) use. HMRC's interpretation of the word 'solely' (in VAT Notice 708 at paragraph 17.11) is that 95% or more of the use of the property ('use' is also defined as 'occupational use' in paragraph

17.10) must be for RRP use and in part 19 of the notice the 'solely' requirement must be met for ten years or more. A similar percentage usage test might be adopted here.

6. Timing of the relief

6.1. As we indicated in our earlier response, there can be significant time lags between incurring remediation costs and final sale of the constructed building or tranche of house sales. The timing of the tax relief for housebuilders and traders does not allow for the release of working capital when the expenditure is first incurred. It is only when the land is remediated, developed and sold that the tax relief becomes available as an additional source of working capital. This consequence does not accord with the policy intent of the relief. The CIOT's position paper[4] explored the pros and cons of accelerated relief for housebuilders and other trader developers.

6.2. We note that accelerating the relief would not only have the benefit of reflecting the policy intent and enhancing visibility, but it would also align with the position for a property investor that is able to claim a deduction in the year of expenditure (once a property business has commenced[5]) thereby removing a distortion in the tax treatment for different types of development.

6.3. The proposal to accelerate relief would not achieve its purpose if entitlement were linked to the discharge of planning conditions as those conditions may not be discharged until long after the remediation expenditure is incurred, particularly on large, phased developments.

6.4. Consideration will also need to be given to the statutory transitional rules for qualifying expenditure incurred to date but not yet expensed to the profit and loss account.

6.5. In terms of mechanisms to provide additional assurance that the same costs are not subsequently relieved again (for example, through a capital allowances claim or as a deductible expense on disposal), one suggestion is to require a record of cumulative elected expenditure not yet reversed for each company as part of the CT600.

7. Acknowledgement of submission

7.1. We would be grateful if you could acknowledge safe receipt of this submission and ensure that the Chartered Institute of Taxation is included in the List of Respondents when any outcome of the consultation is published.

The Chartered Institute of Taxation

17 September 2026

[4] https://www.tax.org.uk/ref1663

[5] Separate discussions have been held and are ongoing between CIOT and HMRC/HMT on HMRC's approach to commencement of a property business – such that LRR can only be claim when a qualifying property business commences – that undermines the policy intent of the relief to incentivise development expenditure including through the payment of tax credits for qualifying land remediation losses and results in a disconnect between the credit and expenditure it is seeking to incentivise.