

LANDFILL DISPOSALS TAX (WALES) ACT 2017

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Taxable Disposals Made at Authorised Landfill Sites

Chapter 3 – Relief from Tax

Section 26 – Reliefs: general

55. This section introduces the chapter on reliefs and sets out the following general rules: reliefs apply only in relation to disposals at authorised landfill sites (so do not apply in relation to unauthorised disposals); where a relief applies, tax is not chargeable; and a relief will not apply unless it is claimed in a tax return. WRA may specify the form of the return and the information that must be contained in it (under section 191 of TCMA) and the landfill site operator will be required to keep and preserve any records relevant to the claim, in accordance with section 38 of TCMA (6 years from making the return or the completion of an enquiry).

Section 27 – Material removed from bed of river, sea or other water

56. This relief applies to the disposal of:
- a. material removed from the bed of certain waterways; and
 - b. naturally occurring material removed from the sea bed as part of the process of obtaining materials such as sand and gravel.
57. The relief may apply to material removed for any purpose, including removal in the interests of navigation or for flood prevention.
58. The relief also covers such qualifying material added to the dredged material as is necessary for the purposes of securing that the dredged material is not in liquid form (and so to allow its disposal to landfill). It is anticipated that the qualifying material which is added would have dehydrating properties or bind the excess moisture content within the waste.

Section 28 – Material resulting from mining and quarrying

59. This relief applies to disposals of naturally occurring material extracted from the earth as a result of mining or quarrying operations. The disposal of such material is relieved if the material has not been subject to any separate process, or has not been chemically altered, between its extraction and disposal.

Sections 29 to 31 – Using material in approved site restoration work, Site restoration work: procedure on application for approval and Site restoration work: variation of approval

60. The use of material in site restoration is a specified landfill site activity, and so is to be treated as a taxable disposal (see section 8(3)(i)). These provisions provide for the

disposal to be relieved from tax if the material consists of qualifying material and is used to restore an authorised landfill site (or part of it) to another use. However, they require landfill site operators to seek approval for the restoration work beforehand in order to be able to claim the relief. The use of material for site restoration without WRA approval will not benefit from the relief. It is anticipated that these provisions will enable WRA to fully assess material used for site restoration and to ensure that the relief is not open to abuse.

61. **Section 29** provides that WRA may approve the carrying out of restoration work at an authorised landfill site.; However, before doing so, WRA will need to be satisfied that the site restoration is required by an environmental permit or planning permission relating to the site. Only the amount of material required to comply with the permit or permission will benefit from the relief.
62. Whilst the landfill site operator must apply to WRA for approval before the restoration work begins, the operator need not wait for WRA's approval before beginning site restoration. A landfill site operator might decide, for example, to proceed without approval in order to take advantage of good weather conditions or the availability of suitable material. However, the landfill site operator would be doing so at the operator's own risk, as there would be no guarantee that WRA would approve the application for approval, so as to enable site restoration relief to be claimed.
63. **Section 30** provides for occasions when WRA requires further information in order to make a decision on whether to approve an application to carry out site restoration and sets out the parameters of how this will work in practice. The WRA and landfill site operator may agree to extend a period of time specified by this section.
64. **Section 31** recognises that the requirements of the site restoration in the environmental permit or planning permission may change and allows WRA to vary the site restoration approval. A variation may be made as a result of an application by a landfill site operator or may be initiated by WRA. If WRA varies the site restoration approval on its own initiative, it must issue a notice setting out the details of that variation to the landfill site operator. A variation to the site restoration approval does not affect the landfill site operator's ability to claim relief for restoration work that was carried out in accordance with the approval before it was varied.

Section 32 - Refilling open-cast mines and quarries

65. This section provides relief for a disposal of qualifying material at a landfill site (or part of it) when:
 - a. the landfill site (or the part of it at which the disposal is made) was formerly an open cast mine or quarry;
 - b. it is a requirement of the planning permission that the site (or the part in question) must be wholly or partially refilled following the open-cast mining or quarrying operations; and
 - c. no other taxable disposals have been made at the site (or part of it), other than disposals qualifying for a relief under section 28 or 32.

Section 33 – Power to modify reliefs

66. This section allows the Welsh Ministers, by regulations, to create, modify or remove a relief; and to provide for a relief to be subject to conditions.