



Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

PART 3

TAXABLE DISPOSALS MADE AT AUTHORISED LANDFILL SITES

CHAPTER 2

TAX CHARGEABLE ON TAXABLE DISPOSALS

Taxable weight of material

18 Taxable weight of material in taxable disposal

- (1) The taxable weight of the material in a taxable disposal made at an authorised landfill site—
 - (a) must be calculated by the operator of the site at which the taxable disposal is made;
 - (b) may be calculated by WRA if it thinks it appropriate to do so.
- (2) The calculation is to be made—
 - (a) in accordance with section 19, if made by the operator;
 - (b) in accordance with section 22, if made by WRA.
- (3) Where—
 - (a) no tax return has been made in respect of the disposal, and
 - (b) WRA—
 - (i) calculates the taxable weight of the material, and
 - (ii) applies the result in issuing a notice to the operator in respect of the disposal,

the taxable weight of the material for the purposes of section 14(2) and (5) is the taxable weight calculated by WRA, unless the operator subsequently takes the steps set out in subsection (4).

- (4) Where the operator—
 - (a) calculates the taxable weight of the material, and
 - (b) applies the result in making or amending a tax return in respect of the disposal, the taxable weight of the material for the purposes of section 14(2) and (5) is the taxable weight calculated by the operator, unless WRA subsequently takes the steps set out in subsection (5).
- (5) Where WRA—
 - (a) calculates the taxable weight of the material after a tax return has been made in respect of the disposal, and
 - (b) applies the result in issuing a notice to the operator in respect of the disposal, the taxable weight of the material for the purposes of section 14(2) and (5) is the taxable weight calculated by WRA, unless the operator subsequently takes the steps set out in subsection (4).

19 Calculation of taxable weight of material by operator

- (1) The operator of an authorised landfill site must calculate the taxable weight of the material in a taxable disposal in the following way.
- (2) The operator must determine the weight of the material in tonnes in accordance with section 20.
- (3) If the operator has approval under section 21 to apply a discount in relation to the disposal, the operator may apply the discount (or a lesser discount) to the weight determined under subsection (2), subject to the conditions of the approval (if any).
- (4) The result is the taxable weight of the material in the taxable disposal.

20 Determination of weight of material by operator

- (1) The operator of an authorised landfill site must determine the weight of the material in a taxable disposal by using a weighbridge.
- (2) The operator must ensure, for the purposes of subsection (1)—
 - (a) that the material is weighed on the weighbridge before the disposal is made, and
 - (b) that the weighbridge meets each requirement in weights and measures legislation that applies to the weighbridge (if any).
- (3) The operator of an authorised landfill site may make an application to WRA for approval to use an alternative method to determine the weight of the material in a taxable disposal.
- (4) An application must—
 - (a) be made in such manner,
 - (b) contain such information, and
 - (c) be accompanied by such documents,
 as may be specified by WRA (either generally or in a particular case).
- (5) Where the operator makes an application for approval—
 - (a) WRA must issue a notice to the operator of its decision on the application, and

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- (b) if WRA gives approval, the notice must set out the details of the approval.
- (6) An approval—
- (a) may relate to all the taxable disposals in respect of which the application is made, or to particular descriptions of those taxable disposals only;
 - (b) may be unconditional or subject to conditions;
 - (c) may be given for a fixed period or an unlimited period;
 - (d) may be varied or revoked at any time by issuing a notice to the operator.
- (7) If WRA gives the operator approval to use an alternative method to determine the weight of the material in a taxable disposal, the operator—
- (a) must use that method in relation to the disposal (instead of the method described in subsection (1)), and
 - (b) must do so in accordance with any condition to which the approval is subject.
- (8) In this section, “weights and measures legislation” means the [Weights and Measures Act 1985 \(c. 72\)](#) and regulations made (in whole or in part) under that Act.

21 Discount in respect of water content of material

- (1) The operator of an authorised landfill site may make an application to WRA for approval to apply a discount in respect of water present in material when calculating the taxable weight of the material in a taxable disposal.
- (2) An application for approval must be made in writing.
- (3) Where the operator makes an application for approval—
- (a) WRA must issue a notice to the operator of its decision on the application, and
 - (b) if WRA gives approval, the notice must set out the details of the approval.
- (4) WRA may give the operator approval to apply a discount in respect of water present in material only if—
- (a) the water is present because—
 - (i) it had to be added to enable the material to be transported for disposal,
 - (ii) it had to be used to extract a mineral,
 - (iii) it had to be added in the course of an industrial process, or
 - (iv) it arose as a necessary consequence of an industrial process, or
 - (b) the material is a residue from the treatment of effluent or sewage at a water treatment works.
- (5) An approval—
- (a) may relate to all taxable disposals in respect of which the application is made, or to particular descriptions of those taxable disposals only;
 - (b) may specify different discounts for different descriptions of taxable disposals;
 - (c) may be unconditional or subject to conditions (for example, a condition requiring payment in respect of tests on material);
 - (d) may be given for a fixed period or an unlimited period;
 - (e) may be varied or revoked at any time by issuing a notice to the operator.
- (6) The operator of an authorised landfill site must keep a record of each taxable disposal in relation to which a discount is applied in respect of water present in material (a “water discount record”).

- (7) WRA may specify—
 - (a) the form in which a water discount record must be kept;
 - (b) the information that must be contained in it.
- (8) The record is to be treated for the purposes of TCMA as being a record required to be kept and preserved under section 38(1) of TCMA for the purpose of demonstrating that the tax return that the operator is required to make, in respect of the accounting period in respect of which tax is chargeable on the disposal, is correct and complete.

22 Calculation of taxable weight of material by WRA

- (1) Where WRA calculates the taxable weight of the material in a taxable disposal, it must do so by—
 - (a) determining the weight of the material in tonnes using any method it thinks appropriate, and
 - (b) where there is approval under section 21 to apply a discount in relation to the disposal, applying the discount to the weight determined under paragraph (a), subject to the conditions of the approval (if any).
- (2) But if WRA is satisfied that a failure or breach mentioned in section 23 has occurred in relation to the taxable disposal, it may, in making its calculation, take the steps set out in that section in respect of the failure or breach.
- (3) The result is the taxable weight of the material in the taxable disposal.

23 Calculation of taxable weight of material by WRA: cases of non-compliance

- (1) This section applies where WRA calculates the taxable weight of the material in a taxable disposal.
- (2) Where WRA is satisfied that the operator of the site at which a taxable disposal is made has failed to make a tax return in relation to the disposal, WRA may ignore section 22(1)(b).
- (3) Where WRA is satisfied that the operator of the site at which a taxable disposal is made has failed to determine the weight of the material in the disposal in accordance with section 20, WRA may—
 - (a) ignore section 22(1)(b), or
 - (b) reduce the discount to be applied under section 22(1)(b) as it thinks appropriate.
- (4) Where WRA is satisfied that the operator of the site at which a taxable disposal is made—
 - (a) has approval under section 21 to apply a discount in relation to the disposal, but
 - (b) is in breach of a condition of the approval,
 WRA may take the steps set out in subsection (5).
- (5) WRA may—
 - (a) ignore section 22(1)(b), or
 - (b) reduce the discount to be applied under section 22(1)(b) as it thinks appropriate.

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- (6) Where WRA is satisfied that there is no water discount record in respect of a taxable disposal, WRA may ignore section 22(1)(b).
- (7) Where WRA is satisfied that the water discount record in respect of a taxable disposal does not meet a requirement specified under section 21(7), WRA may—
 - (a) ignore section 22(1)(b), or
 - (b) reduce the discount to be applied under section 22(1)(b) as it thinks appropriate.
- (8) In this section, “water discount record” has the meaning given by section 21(6).

24 Reviews and appeals relating to method for determining weight of material

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (g) (inserted by paragraph 62 of Schedule 23 to LTTA) insert—

- “(h) a decision relating to the method to be used by the operator of an authorised landfill site to determine the weight of material for the purposes of landfill disposals tax;”.

25 Power to modify provision relating to taxable weight of material

Regulations may add to, repeal or otherwise amend any provision in this Act relating to the taxable weight of the material in a taxable disposal made at an authorised landfill site (including provision relating to the application of a discount in respect of water present in the material).