



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 5

### SUPPLEMENTARY PROVISION

#### CHAPTER 2

##### NON-DISPOSAL AREAS

#### 55 Designation of non-disposal area

- (1) WRA may designate a part of an authorised landfill site in Wales as a non-disposal area by issuing a notice to the operator of the site.
- (2) A notice designating a non-disposal area must specify—
  - (a) the authorised landfill site to which it relates,
  - (b) the boundaries of the area that it designates, and
  - (c) the date on which the designation of the area takes effect.
- (3) The notice—
  - (a) must specify the descriptions of material that must be deposited in the non-disposal area,
  - (b) may specify descriptions of material that must not be deposited in the area,
  - (c) must require the weight of any material that is deposited in or removed from the area to be determined using a method specified in the notice,
  - (d) may specify a maximum amount of material that may be kept in the area,
  - (e) must specify the landfill site activities that may be carried out in the area, and
  - (f) must specify the maximum period for which material may be kept in the area.
- (4) The provision made by the notice under subsection (3) may include—
  - (a) provision that is subject to conditions or exceptions, and

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- (b) different provision for different cases (including different descriptions of material).
- (5) WRA may vary or cancel a designation under this section by issuing a further notice to the operator of the site.
- (6) A notice varying or cancelling a designation—
  - (a) must set out the details of the variation or cancellation,
  - (b) must specify the date on which it takes effect, and
  - (c) may specify steps that the operator is required or permitted to take in connection with the variation or cancellation.
- (7) WRA may make, vary or cancel a designation under this section—
  - (a) on the application of the operator of the authorised landfill site to which the designation relates, or
  - (b) on its own initiative.
- (8) An application for a designation, variation or cancellation must be made in writing.
- (9) If WRA refuses an application, it must issue a notice of its decision to the operator of the authorised landfill site.
- (10) Regulations may amend this section to make further or different provision about the contents of a notice issued under this section.

#### Commencement Information

**II** S. 55 in force at 25.1.2018 by S.I. 2018/35, art. 2(p)

VALID FROM 01/04/2018

#### 56 Duties of operator in relation to non-disposal area

- (1) Where—
  - (a) a notice is in force designating a part of an authorised landfill site as a non-disposal area, and
  - (b) there is material at the site which is of a description specified in the notice as material which must, or must not, be deposited in the area,
 the operator of the site must ensure that the material is dealt with in accordance with the provisions of the notice.
- (2) Subsection (1) ceases to apply in relation to material if a taxable disposal of the material is made outside the non-disposal area.
- (3) Subsection (1) does not apply in relation to material if—
  - (a) a taxable disposal of the material is going to be made immediately after it is produced at or brought onto the authorised landfill site, or
  - (b) the material is in transit between places outside the site and is going to be removed from the site immediately.
- (4) Nor does that subsection apply if—

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- (a) WRA agrees in a particular case that material may be dealt with otherwise than in accordance with the provisions of the notice designating the non-disposal area, and
  - (b) the material is dealt with in accordance with the agreement.
- (5) An agreement given by WRA under subsection (4)(a)—
- (a) may be unconditional or subject to conditions;
  - (b) may provide that anything done in relation to material identified in the agreement is to be treated as having been done in relation to other material of the same description at the authorised landfill site;
  - (c) may relate to things done before the agreement is given if WRA is satisfied that the operator of the site could not reasonably have been expected to obtain its agreement before they were done.
- (6) See section 8(3)(g) for provision which treats a taxable disposal as being made if material is kept in a non-disposal area beyond the end of the maximum period specified in the notice designating the area, unless the material is dealt with in accordance with an agreement under subsection (4)(a).
- (7) Regulations may amend this section to make further or different provision about circumstances in which subsection (1) does not apply (or ceases to apply).

## 57 Duties to keep and preserve records

- (1) Where part of an authorised landfill site has been designated as a non-disposal area, the operator of the site must keep records relating to material that is deposited in the area.
- (2) The records must be sufficient to enable WRA to determine whether the operator is complying, or has complied, with section 56 in relation to the material.
- (3) WRA may specify—
  - (a) the form in which the records must be kept, and
  - (b) the information that must be contained in them.
- (4) The operator must preserve the records until the end of the period of 6 years beginning with the date on which the material is removed from the non-disposal area, or ceases to be material of a description that must be deposited in the area, whichever is earlier.
- (5) But an agreement given under section 56(4)(a) in relation to material may require the operator to preserve the records relating to the material until the end of a period of 6 years beginning with a different date (whether earlier or later) from the one specified in subsection (4).
- (6) See Chapter 2 of Part 3 of TCMA for other duties to keep and preserve records which apply where a taxable disposal is treated as being made by virtue of section 8(3)(g).

### Commencement Information

I2 S. 57(3) in force at 25.1.2018 by S.I. 2018/35, art. 2(q)

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## **58      Reviews and appeals relating to designation of non-disposal areas**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (i) (inserted by section 38 of this Act) insert—

“(j) a decision relating to the designation of a non-disposal area for the purposes of landfill disposals tax;”.

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### **Commencement Information**

**I3**    **S. 58** in force at 25.1.2018 by **S.I. 2018/35**, **art. 2(r)**

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**Changes to legislation:**

There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, CHAPTER 2.