



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 4

### INVESTIGATORY POWERS OF WRA

#### CHAPTER 4

##### INSPECTIONS OF PREMISES AND OTHER PROPERTY

#### **103 Power to inspect business premises**

- (1) If WRA has grounds for believing that the inspection of a person's business premises is required for the purpose of checking the person's tax position, WRA may enter the premises and inspect—
  - (a) the premises;
  - (b) business assets that are on the premises;
  - (c) business documents that are on the premises (but see section 110).
- (2) But WRA may carry out such an inspection only with—
  - (a) the agreement of the occupier of the premises, or
  - (b) the approval of the tribunal.
- (3) An inspection may be carried out—
  - (a) at a time agreed to by the occupier of the premises, or
  - (b) if the inspection has been approved by the tribunal—
    - (i) at a reasonable time specified in a notice issued to the occupier at least 7 days before that time, or
    - (ii) at any reasonable time if the tribunal, when approving the inspection, is satisfied that WRA has grounds for believing that notifying the

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occupier would seriously prejudice the assessment or collection of devolved tax.

- (4) If WRA seeks to carry out an inspection without—
- (a) the agreement of the occupier, or
  - (b) issuing a notice under subsection (3)(b)(i),
- WRA must provide a notice at the time the inspection is to begin.
- (5) A notice provided under subsection (4) must—
- (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (6) A notice issued under subsection (3)(b)(i), or provided under subsection (4), must state—
- (a) that the inspection has been approved by the tribunal, and
  - (b) the possible consequences of obstructing a person exercising WRA's functions.
- (7) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- [<sup>F1</sup>(8) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.]

#### Textual Amendments

- F1** S. 103(8) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), ss. 59\(2\), 97\(2\); S.I. 2018/35, art. 2\(s\)](#)

#### Commencement Information

- II** S. 103 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(c\)](#)

### [<sup>F2</sup>103A Further power to inspect business premises: landfill disposals tax

- (1) If WRA has grounds for believing that the following conditions are met, WRA may enter a person's business premises and inspect—
- (a) the premises;
  - (b) business assets that are on the premises;
  - (c) relevant business documents that are on the premises (but see section 110).
- (2) The first condition is that the person is or has been involved in any capacity with a disposal of material that is or may be a taxable disposal.
- (3) The second condition is that the inspection of the premises is required for the purpose of checking the position of another person as regards landfill disposals tax in respect of the disposal concerned.
- (4) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).

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- (5) In this section, “relevant business documents” means business documents that relate to matters relevant to the position of a person as regards landfill disposals tax.
- (6) The circumstances in which WRA is to be treated as having grounds for believing that the first condition is met include (for example) circumstances where WRA has grounds for believing that the person—
  - (a) is, or has been, involved in any capacity with receiving, transporting or supplying any material for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal, or
  - (b) is, or has been, involved in any capacity in subjecting any material to any procedure or use, or otherwise in dealing with or making arrangements in respect of any material, for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal.
- (7) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.
- (8) In this section—
  - (a) references to a disposal of material include the carrying out of a specified landfill site activity in relation to material;
  - (b) “material”, “specified landfill site activity” and “taxable disposal” have the same meanings as in LDTA.

#### Textual Amendments

- F2** Ss. 103A, 103B inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), ss. **59(1)**, [97\(2\)](#); S.I. 2018/35, art. 2(s)

### **103B Further power to inspect premises: taxable disposals made at places other than authorised landfill sites**

- (1) This section applies if WRA has grounds for believing—
  - (a) that a disposal of material that is or may be a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
  - (b) that the inspection of premises within subsection (3) is required for one or more of the purposes listed in subsection (4).
- (2) WRA may enter the premises and inspect—
  - (a) the premises, and
  - (b) anything on the premises (including documents).
- (3) Premises are within this subsection if WRA has reason to believe that—
  - (a) the disposal was made at them, or
  - (b) the occupier of the premises meets, or may meet, the charging condition in respect of the disposal.
- (4) The purposes are—
  - (a) determining whether the disposal was made at the premises;
  - (b) identifying the nature or origin of the material disposed of;
  - (c) identifying the date on which the disposal was made;
  - (d) determining whether the disposal is a taxable disposal;

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- (e) determining the weight of the material disposed of;
  - (f) determining the amount of any proposed charge to tax under LDTA on the disposal;
  - (g) identifying a person who meets, or may meet, the charging condition in respect of the disposal.
- (5) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).
- (6) In this section—
- (a) “authorised landfill site”, “material” and “taxable disposal” have the same meanings as in LDTA;
  - (b) references to a person meeting the charging condition have the same meaning as in Chapter 2 of Part 4 of LDTA.]

#### Textual Amendments

**F2** Ss. 103A, 103B inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **ss. 59(1), 97(2)**; [S.I. 2018/35](#), **art. 2(s)**

### 104 Carrying out inspections under section 103 [<sup>F3</sup>, 103A or 103B] : further provision

- (1) When carrying out an inspection under section 103, [<sup>F4</sup>103A or 103B,] WRA has the following powers.
- (2) On entering the <sup>F5</sup>... premises, WRA may—
- (a) if it has grounds for believing that the carrying out of the inspection may be seriously obstructed, be accompanied by a constable, and
  - (b) be accompanied by a person authorised by WRA.
- (3) WRA may make such examination or investigation as it considers to be necessary in the circumstances.
- (4) WRA may direct that the premises or any part of them, or anything in them, be left undisturbed (either generally or in particular respects) for so long as is necessary for the purposes of any such examination or investigation.
- (5) WRA, or a person accompanying WRA, may take samples of material from the premises.
- (6) The power to take samples includes power—
- (a) to carry out experimental borings or other works on the premises, and
  - (b) to install, keep or maintain monitoring and other apparatus on the premises.
- (7) Any sample taken under subsection (5) is to be disposed of in such manner as WRA may determine.

#### Textual Amendments

**F3** Words in s. 104 heading inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **s. 97(2), Sch. 4 para. 4(a)**; [S.I. 2018/35](#), **art. 2(z)(i)**

**F4** Words in s. 104(1) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), **s. 97(2), Sch. 4 para. 4(b)**; [S.I. 2018/35](#), **art. 2(z)(i)**

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**F5** Word in s. 104(2) omitted (25.1.2018) by virtue of [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 4\(c\)](#); S.I. 2018/35, art. 2(z)(i)

#### Commencement Information

**I2** S. 104 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 105 Carrying out inspections under section 103 [<sup>F6</sup>, 103A or 103B]: use of equipment and materials

- (1) WRA, or a person accompanying WRA, may take any equipment or materials required for the purpose of an inspection under section [<sup>F7</sup>103, 103A or 103B onto the] premises being inspected.
- (2) WRA, or a person accompanying WRA, may take equipment or materials onto the premises—
  - (a) at a time agreed to by the occupier of the premises, or
  - (b) at any reasonable time, if either—
    - (i) a notice was issued under section 103(3)(b)(i) and the notice specified that the equipment or materials were to be taken onto the premises, or
    - (ii) WRA has grounds for believing that issuing such a notice would seriously prejudice the assessment or collection of devolved tax.
- (3) If equipment or materials are taken onto premises without—
  - (a) the agreement of the occupier, or
  - (b) a notice having been issued in accordance with subsection (2)(b)(i),WRA must provide a notice at the time the equipment or materials are to be taken onto the premises.
- (4) The notice must—
  - (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (5) The notice must state the possible consequences of obstructing a person exercising WRA's functions.
- (6) If the inspection, or the use of equipment or materials, has been approved by the tribunal, the notice must state that fact.

[<sup>F8</sup>(7) References in this section to a notice issued under section 103(3)(b)(i) include a notice issued under that provision as applied by sections 103A(4) and 103B(5).]

#### Textual Amendments

- F6** Words in s. 105 heading inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(a\)](#); S.I. 2018/35, art. 2(z)(i)
- F7** Words in s. 105(1) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(b\)](#); S.I. 2018/35, art. 2(z)(i)
- F8** S. 105(7) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 5\(c\)](#); S.I. 2018/35, art. 2(z)(i)

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#### **Commencement Information**

**I3** S. 105 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### **106 Power to inspect premises or property for valuation etc.**

- (1) WRA may enter premises and inspect the premises and any property on the premises for the purpose of valuing, measuring or determining the character of the premises or property if—
  - (a) the valuation, measurement or determination is required for the purposes of checking any person's tax position, and
  - (b) either condition 1 or 2 is met.
- (2) Condition 1 is that—
  - (a) the inspection is carried out at a time agreed to by a relevant person, and
  - (b) a notice of the agreed time of the inspection has been issued to the relevant person.
- (3) Condition 2 is that—
  - (a) the inspection has been approved by the tribunal, and
  - (b) a notice of the time of the inspection has been issued to a relevant person specified by the tribunal at least 7 days before that time.
- (4) In this section, “relevant person” means—
  - (a) the occupier of the premises, or
  - (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.
- (5) A notice under subsection (2)(b) or (3)(b) must state possible consequences of obstructing a person exercising WRA's functions.
- (6) A notice under subsection (3)(b) must also state that the inspection has been approved by the tribunal.
- (7) If WRA considers it necessary to assist with the inspection, WRA may be accompanied by a person authorised by WRA.

#### **Commencement Information**

**I4** S. 106 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### **107 Producing authorisation to carry out inspections**

If a person carrying out an inspection under section 103 [<sup>F9</sup>, 103A, 103B] or 106 is unable to produce evidence of authority to carry out the inspection when asked to do so by—

- (a) the occupier of the premises, or
  - (b) any other person who appears to be in charge of, or to control, the premises,
- the inspection must stop and may not be continued until such evidence is produced.

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#### Textual Amendments

- F9** Words in s. 107 inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\), s. 97\(2\), Sch. 4 para. 6; S.I. 2018/35, art. 2\(z\)\(i\)](#)

#### Commencement Information

- I5** S. 107 in force at 25.1.2018 by [S.I. 2018/33, art. 2\(c\)](#)

### 108 Approval of tribunal for inspection of premises

- (1) WRA may ask the tribunal to approve—
  - (a) an inspection under section 103 [<sup>F10</sup> 103A, 103B] or 106, or
  - (b) the exercise of powers under section 104 or 105 in relation to an inspection under section 103 [<sup>F11</sup> 103A or 103B] which has been agreed to by the occupier of the premises.
- (2) The tribunal's approval of an inspection under section 103 [<sup>F12</sup> 103A or 103B] includes approval of the exercise of the powers under section 104 or 105 subject to any conditions imposed by the tribunal in approving the inspection.
- (3) An application for approval may be made under subsection (1) without notice of the application being sent to—
  - (a) the person whose tax position is the subject of the proposed inspection, or
  - (b) the occupier of the premises.
- (4) The tribunal may approve an inspection under section [<sup>F13</sup> 103, 103A or 103B] only if—
  - (a) it is satisfied that the applicable requirement is met,] and
  - (b) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax.

[<sup>F14</sup>(4A) The applicable requirement is—

- (a) in the case of an inspection of a person's business premises under section 103, that WRA has grounds for believing that the inspection of the premises is required for the purpose of checking the person's tax position;
  - (b) in the case of an inspection of a person's business premises under section 103A, that WRA has grounds for believing that the conditions set out in subsections (2) and (3) of that section are met;
  - (c) in the case of an inspection of premises under section 103B, that WRA has grounds for believing the matters set out in subsection (1) of that section.]
- (5) The tribunal may approve an inspection under section 106 only if it is satisfied that the inspection is required for the purposes of checking any person's tax position and—
  - (a) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax, or
  - (b) in any other case—
    - (i) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to WRA about the inspection,

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- (ii) the occupier of the premises has been given a reasonable opportunity to make such representations, and
- (iii) the tribunal has been provided with a summary of any representations made.
- (6) Subsection (5)(b)(ii) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.
- (7) Where the tribunal has approved an inspection under subsection (1)(a) or the exercise of a power under subsection (1)(b), WRA must carry out the inspection or exercise the power—
  - (a) no later than 3 months after the day on which the tribunal's approval was given, or
  - (b) within such shorter period as the tribunal may specify when giving the approval.

#### Textual Amendments

- F10** Words in s. 108(1)(a) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(a\)](#); S.I. 2018/35, art. 2(z)(i)
- F11** Words in s. 108(1)(b) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(b\)](#); S.I. 2018/35, art. 2(z)(i)
- F12** Words in s. 108(2) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(c\)](#); S.I. 2018/35, art. 2(z)(i)
- F13** Words in s. 108(4) substituted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(d\)](#); S.I. 2018/35, art. 2(z)(i)
- F14** S. 108(4A) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017 \(anaw 3\)](#), s. 97(2), [Sch. 4 para. 7\(e\)](#); S.I. 2018/35, art. 2(z)(i)

#### Commencement Information

- I6** S. 108 in force at 25.1.2018 by [S.I. 2018/33](#), art. 2(c)

### 109 Power to mark assets and to record information

The powers under sections 103 to 106 include—

- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, property, assets and documents that have been inspected.

#### Commencement Information

- I7** S. 109 in force at 25.1.2018 by [S.I. 2018/33](#), art. 2(c)

### 110 Restriction on inspection of documents

WRA may not inspect a document under this Chapter if (or to the extent that), by virtue of Chapters 2 and 3, an information notice issued at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.



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#### Commencement Information

**I8** S. 110 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

### 111 Interpretation of Chapter 4

[<sup>F15</sup>(1)] In this Chapter—

“business assets” (“*asedau busnes*”) means assets that WRA has reason to believe are owned, leased or used in connection with the carrying on of a business by any person, but does not include documents;

“business documents” (“*dogfennau busnes*”) means documents (or copies of documents) that relate to the carrying on of a business by any person;

“business premises” (“*mangre busnes*”), in relation to a person, means premises (or any part of premises) that WRA has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person;

“premises” (“*mangre*”) includes any building or structure, any land and any means of transport.

[<sup>F16</sup>(2)] For the purposes of the definition of “premises” in subsection (1) as it applies in relation to landfill disposals tax, “land” includes material (within the meaning of LDTA) that WRA has grounds for believing has been deposited on the surface of land or on a structure set into the surface, or under the surface of land.]

#### Textual Amendments

**F15** S. 111(1): s. 111 renumbered as s. 111(1) (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017](#) (anaw 3), s. 97(2), [Sch. 4 para. 8\(a\)](#); [S.I. 2018/35](#), art. 2(z)(i)

**F16** S. 111(2) inserted (25.1.2018) by [Landfill Disposals Tax \(Wales\) Act 2017](#) (anaw 3), s. 97(2), [Sch. 4 para. 8\(b\)](#); [S.I. 2018/35](#), art. 2(z)(i)

#### Commencement Information

**I9** S. 111 in force at 25.1.2018 by [S.I. 2018/33](#), [art. 2\(c\)](#)

**Changes to legislation:**

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