



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 2

### THE TAX AND TAXABLE DISPOSALS

#### CHAPTER 2

##### TAXABLE DISPOSALS

### 3 Taxable disposals

- (1) A taxable disposal is made when all of the following conditions are met.
- (2) Condition 1 is that there is a disposal of material by way of landfill (see section 4).
- (3) Condition 2 is that either—
  - (a) the land where the disposal is made is, or forms part of, an authorised landfill site (see section 5(1)), or
  - (b) the disposal requires an environmental permit (see section 5(2)) but the land where it is made is not, and does not form part of, an authorised landfill site.
- (4) Condition 3 is that the disposal is a disposal of the material as waste (see sections 6 and 7).
- (5) Condition 4 is that the disposal is made in Wales.
- (6) See also section 8 for specified landfill site activities that are to be treated as taxable disposals (whether or not the above conditions are met).

#### Commencement Information

**II** S. 3 in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

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*Changes to legislation: There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, CHAPTER 2. (See end of Document for details)*

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#### 4 Disposal of material by way of landfill

- (1) There is a disposal of material by way of landfill if material is—
  - (a) deposited on the surface of land or on a structure set into the surface, or
  - (b) deposited under the surface of land (for example, in a cavity such as a cavern or mine).
- (2) Subsection (1) applies whether or not the material is placed in a container before it is deposited.
- (3) Regulations may modify the meaning of a disposal of material by way of landfill (including by amending this section or any other enactment relating to the tax).

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##### Commencement Information

**I2** [S. 4](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

#### 5 Authorised landfill sites and environmental permits

- (1) Land is an authorised landfill site if an environmental permit authorising disposals of material by way of landfill is in force in relation to the land.
- (2) An environmental permit is a permit granted under regulations made under section 2 of the Pollution Prevention and Control Act 1999 (c. 24).

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##### Commencement Information

**I3** [S. 5](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

#### 6 Disposal of material as waste

- (1) A disposal of material is a disposal of it as waste if the person responsible for the disposal intends to discard the material.
- (2) An intention to discard material may be inferred from the circumstances of its disposal, and in particular from the fact (where it is the case) that the material is deposited in a landfill disposal area.
- (3) The following are not to be treated as inconsistent with an intention to discard material—
  - (a) making a temporary use of the material, or a use of the material which is incidental to its disposal by way of landfill;
  - (b) deriving a benefit from the material or from anything emitted by it (for example, using gas produced by its decomposition in electricity generation).
- (4) Regulations may modify the meaning of a disposal of material as waste (including by amending this section or any other enactment relating to the tax).

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##### Commencement Information

**I4** [S. 6](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

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**Changes to legislation:** There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, CHAPTER 2. (See end of Document for details)

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## 7 Disposal of material as waste: person responsible for disposal

- (1) This section identifies the person responsible for a disposal of material for the purposes of section 6.
- (2) In the case of a disposal made at an authorised landfill site, the person responsible for the disposal is the person who is the operator of the site at the time of the disposal.
- (3) But if the disposal is made without the permission of the operator, the person responsible for the disposal is the person who makes the disposal.
- (4) The operator of an authorised landfill site is the holder of the environmental permit authorising disposals of material by way of landfill at the site.
- (5) In the case of a disposal made at a place that is not, and does not form part of, an authorised landfill site, the person responsible for the disposal is the person who makes the disposal.

### Commencement Information

**I5** S. 7 in force at 1.4.2018 by S.I. 2018/35, art. 3

## 8 Landfill site activities to be treated as taxable disposals

- (1) The carrying out of a specified landfill site activity in Wales is to be treated as a taxable disposal of the material in relation to which the activity is carried out (whether or not the conditions in section 3 are met).
- (2) The taxable disposal is to be treated as being made when the specified landfill site activity is first carried out in relation to the material.
- (3) The following are specified landfill site activities when carried out at an authorised landfill site—
  - (a) using material to create or maintain a temporary road giving access to a landfill disposal area;
  - (b) using material to create or maintain a temporary hard standing;
  - (c) using material to create or maintain a cell bund;
  - (d) using material (other than naturally occurring material extracted from the site) to create or maintain a temporary screening bund;
  - (e) using material to cover a landfill disposal area during a temporary cessation in landfill disposals;
  - (f) placing material in a landfill disposal area to provide a base for, or prevent damage to, anything used to line, cap or drain that area;
  - (g) keeping material in a non-disposal area beyond the end of the maximum period specified in the notice designating the area under section 55, unless the material is dealt with in accordance with an agreement under section 56(4)(a);
  - (h) storing ashes (for example, fly ash and bottom ash);
  - (i) using material in restoration work.
- (4) In subsection (3)—

“cell bund” (“*bwnd cell*”) means a structure within a landfill disposal area which separates quantities of material deposited in that area;

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“hard standing” (“*arwyneb solet*”) means a base on which a landfill site activity is carried out;

“restoration work” (“*gwaith adfer*”) means work carried out to restore an authorised landfill site (or any part of the site) to a use other than making landfill disposals; but [<sup>F1</sup>where a landfill disposal area is capped, work carried out to restore that area] is restoration work only if it is carried out after the area has been capped;

“screening bund” (“*bwnd sgrinio*”) means a structure, whether above or below ground, for protecting or concealing a landfill site activity or reducing noise.

(5) Regulations may—

- (a) provide that a landfill site activity is to be a specified landfill site activity,
- (b) modify the description of a specified landfill site activity, or
- (c) provide that an activity is to cease to be a specified landfill site activity.

(6) The regulations may amend this section or any other enactment relating to the tax.

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**Textual Amendments**

- F1** Words in s. 8(4) substituted (19.7.2019) by [The Landfill Disposals Tax \(Wales\) Act 2017 \(Reliefs\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1143\)](#), regs. 1(2), 2

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**Commencement Information**

- I6** S. 8(1)-(3) (5)(6) in force at 1.4.2018 by [S.I. 2018/35](#), art. 3
- I7** S. 8(4) in force at 25.1.2018 by [S.I. 2018/35](#), art. 2(a)

**Changes to legislation:**

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