



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

Qualifying materials and qualifying mixtures of materials

15 Qualifying material

(1) Qualifying material is material in respect of which the following requirements are met.

Requirement 1 The material is specified in the Table in Schedule 1.

Requirement 2 Each condition in the Table in Schedule 1 that applies in respect of the material is met (if any).

Requirement 3 There is—

- (a) if a written description of the material is required by virtue of section 34(1)(c)(ii) of the Environmental Protection Act 1990 (c. 43), a written description of the kind required, or
- (b) if no written description of the material is required by virtue of that section, other evidence,

from which it can be determined that requirements 1 and 2 are met.

(2) Regulations may amend Schedule 1.

Commencement Information

II [S. 15](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

Changes to legislation: *There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, Cross Heading: Qualifying materials and qualifying mixtures of materials. (See end of Document for details)*

16 Qualifying mixtures of materials

- (1) A qualifying mixture of materials is a mixture in respect of which the following requirements are met.

Requirement 1 The mixture consists of—

- (a) one or more qualifying materials, and
- (b) a small amount of one or more non-qualifying materials that is incidental to the qualifying materials.

Requirement 2 There is—

- (a) if a written description of the mixture is required by virtue of section 34(1)(c)(ii) of the Environmental Protection Act 1990 (c. 43), a written description of the kind required, or
- (b) if no written description of the mixture is required by virtue of that section, other evidence,

from which it can be determined that requirement 1 is met.

Requirement 3 The non-qualifying materials have not been mixed with the qualifying materials deliberately for the purposes of—

- (a) disposal, or
- (b) matters preparatory to disposal.

Requirement 4 The non-qualifying materials do not include any material prescribed as material that must not be included in a qualifying mixture of materials.

Requirement 5 The mixture is not hazardous waste within the meaning of Directive [2008/98/EC](#) of the European Parliament and of the Council of 19 November 2008 on waste.

Requirement 6 No arrangements have been made in respect of the mixture that have, as their main purpose, or as one of their main purposes, the avoidance of liability to the tax.

Requirement 7 If the mixture consists entirely of fines, any requirement prescribed under section 17(1) (either in relation to mixtures generally or in relation to mixtures of that particular description) is met in respect of the mixture.

- (2) For the purposes of requirement 1—

- (a) both the weight and the volume of the non-qualifying materials must be taken into account in determining whether the amount of those materials is to be treated as a small amount;
- (b) the potential that the non-qualifying materials have to cause harm must be taken into account in determining whether those materials are to be treated as incidental to the qualifying materials.

- (3) Regulations may provide that an amount of non-qualifying materials is not to be treated as a small amount for the purposes of requirement 1 if it constitutes more than a prescribed percentage of the mixture of materials (by weight or volume or both).

- (4) Regulations may amend this section to—

- (a) add a further requirement to subsection (1),
- (b) modify an existing requirement,
- (c) remove a requirement, or

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- (d) make further provision about matters that must or may be taken into account for the purposes of determining whether a requirement is met, or modify or remove existing provision about those matters.

(5) In this section—

“arrangement” (“*trefniant*”) has the meaning given in section 81B(3) of TCMA;

“fines” (“*gronynnau mân*”) has the meaning given in section 17(6);

“non-qualifying material” (“*deunydd anghymwys*”) means a material that is not a qualifying material;

“prescribed” (“*rhagnodedig*”) means prescribed in regulations.

Commencement Information

I2 [S. 16](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

17 Qualifying mixture of materials: fines

- (1) Regulations may prescribe requirements that must be met (in addition to requirements 1 to 6 in section 16) in order for a mixture of materials consisting entirely of fines to be treated as a qualifying mixture of materials.
- (2) The regulations may provide (among other things)—
 - (a) that the mixture must originate in a prescribed way (for example, by means of a prescribed waste treatment process);
 - (b) that there must be prescribed evidence regarding the nature of the fines in the mixture;
 - (c) that prescribed steps must have been taken in relation to the mixture (either by the operator of an authorised landfill site or by any other person);
 - (d) that there must be prescribed evidence regarding the taking of those steps;
 - (e) that the mixture must give a prescribed result if subjected to a prescribed test.
- (3) Where regulations are made under subsection (2)(e), regulations may also make connected provision, including (among other things) provision—
 - (a) requiring the operator of an authorised landfill site to carry out the prescribed test (“the test”) on prescribed mixtures of fines;
 - (b) specifying when the operator must do so;
 - (c) enabling WRA—
 - (i) to direct the operator to carry out the test on all mixtures of fines brought onto the site, or on particular descriptions of those mixtures of fines;
 - (ii) to carry out the test itself on any mixture of fines brought onto the site;
 - (d) requiring the operator and WRA—
 - (i) to keep prescribed evidence in connection with the test, and
 - (ii) to preserve it for a prescribed period;
 - (e) requiring the operator to provide prescribed information to WRA in connection with the test—
 - (i) at prescribed intervals;
 - (ii) in the prescribed form and manner;

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- (f) requiring or permitting the operator to take prescribed steps if a mixture of fines fails the test;
 - (g) prohibiting prescribed mixtures of fines from being treated as qualifying mixtures of materials in prescribed circumstances.
- (4) Regulations under subsection (3) may make provision for—
- (a) penalties, or
 - (b) reviews and appeals,
- in connection with any provision made under that subsection; and where they do so, they may amend or apply (with or without modifications) any enactment relating to the tax.
- (5) Any regulations under this section, other than regulations conferring powers or imposing duties on WRA, may make provision by reference to things specified in a notice published by WRA (and not withdrawn by a subsequent published notice).
- (6) In this section—
- “fines” (“*gronynnau mân*”) means particles produced by a waste treatment process that involves mechanical treatment;
 - “prescribed” (“*rhagnodedig*”) means prescribed in regulations.

Commencement Information

I3 [S. 17](#) in force at 18.10.2017 by [S.I. 2017/955](#), [art. 2\(b\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, Cross Heading: Qualifying materials and qualifying mixtures of materials.