



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 1

### OVERVIEW

#### 1 Overview of Act

- (1) This Part provides an overview of this Act.
- (2) Part 2—
  - (a) makes provision for a tax (landfill disposals tax) to be charged on taxable disposals,
  - (b) explains what a taxable disposal is, and
  - (c) makes provision about disposals that are exempted from the tax.
- (3) Part 3 makes provision about how the tax is to be charged on taxable disposals made at authorised landfill sites. It includes provision about—
  - (a) the persons on whom the tax is chargeable,
  - (b) how the amount of tax chargeable on a taxable disposal is to be calculated,
  - (c) taxable disposals for which relief from the tax may be claimed,
  - (d) registration and accounting requirements, and
  - (e) payment, recovery and repayment of the tax.
- (4) Part 4 makes provision about how the tax is to be charged on taxable disposals made at places other than authorised landfill sites. It includes provision about—
  - (a) how the amount of tax chargeable on a taxable disposal is to be calculated,
  - (b) the persons on whom the tax may be charged,
  - (c) the procedure by which tax is charged on a person,
  - (d) payment of the tax, and
  - (e) late payment interest on unpaid tax.
- (5) Part 5 makes supplementary provision in connection with the tax. It includes provision—

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- (a) enabling regulations to be made about circumstances in which a person is to be entitled to credit in respect of the tax,
  - (b) about the creation of non-disposal areas within authorised landfill sites,
  - (c) about the inspection of premises and information sharing,
  - (d) about penalties,
  - (e) about the application of the provisions of this Act and the Tax Collection and Management (Wales) Act 2016 (anaw 6) in special cases (for example, in the case of corporate groups, partnerships and unincorporated associations), and
  - (f) about other miscellaneous matters.
- (6) Part 5 also makes provision for a Landfill Disposals Tax Communities Scheme.
- (7) Part 6 contains provision that applies generally for the purposes of this Act (including provision about the interpretation of this Act).

VALID FROM 25/01/2018

## PART 2

### THE TAX AND TAXABLE DISPOSALS

VALID FROM 01/04/2018

## CHAPTER 1

### LANDFILL DISPOSALS TAX

#### 2      **The tax**

- (1) A tax, to be known as landfill disposals tax, is to be charged on taxable disposals in accordance with this Act.
- (2) The Welsh Revenue Authority (“WRA”) is responsible for the collection and management of the tax.
- (3) References in this Act to tax (or to the tax) are references to landfill disposals tax.

## CHAPTER 2

### TAXABLE DISPOSALS

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#### 3      **Taxable disposals**

- (1) A taxable disposal is made when all of the following conditions are met.

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- (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).

VALID FROM 01/04/2018

#### **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).

VALID FROM 01/04/2018

#### **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).

VALID FROM 01/04/2018

#### **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.

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- (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).

VALID FROM 01/04/2018

## **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.

## **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;

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- (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;
  - “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 work carried out to restore a landfill disposal 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.

VALID FROM 01/04/2018

## CHAPTER 3

### EXEMPT DISPOSALS

#### 9 Exemptions: general

- (1) This Chapter provides exemption from tax for certain disposals of material which would otherwise be treated as taxable disposals.
- (2) A disposal of material that is exempt from tax is not a taxable disposal.
- (3) In this Chapter, references to a disposal of material include the carrying out of a specified landfill site activity in relation to material.

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## **10 Multiple disposals of material at same site**

A disposal of material is exempt from tax to the extent that—

- (a) it is a disposal of material which has already been included in a taxable disposal—
  - (i) which was made at an authorised landfill site, and
  - (ii) in respect of which tax was chargeable, and
- (b) it is made at the same authorised landfill site as that taxable disposal.

## **11 Pet cemeteries**

(1) A disposal of material is exempt from tax if—

- (a) it is a disposal of material consisting entirely of the remains of dead pets (and any container or material in which the remains are contained), and
- (b) it is made at an authorised landfill site which meets the condition in subsection (2).

(2) The condition is that no landfill disposals were made at the site during the relevant period other than disposals of material consisting entirely of the remains of dead pets (and any container or material in which the remains are contained).

(3) The relevant period is the period which—

- (a) begins with the day on which this section comes into force, or on which the site becomes an authorised landfill site, whichever is later, and
- (b) ends immediately before the disposal mentioned in subsection (1).

## **12 Power to modify exemptions**

(1) Regulations may—

- (a) create an additional exemption from tax,
- (b) modify an existing exemption, or
- (c) remove an exemption.

(2) The regulations may provide for an exemption to apply subject to conditions (for example, a condition requiring WRA to be notified before a disposal is made).

(3) The regulations may amend any enactment relating to the tax.

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## PART 3

### TAXABLE DISPOSALS MADE AT AUTHORISED LANDFILL SITES

VALID FROM 01/04/2018

#### CHAPTER 1

##### PERSONS CHARGEABLE TO TAX

#### 13 Persons chargeable to tax

Tax chargeable on a taxable disposal of material made at an authorised landfill site is chargeable on the person who is the operator of the site at the time of the disposal (whether or not the operator makes the disposal or permits it to be made).

#### CHAPTER 2

##### TAX CHARGEABLE ON TAXABLE DISPOSALS

###### *Calculation of tax chargeable*

#### 14 Calculation of tax chargeable on taxable disposal

- (1) This section applies to a taxable disposal of material made at an authorised landfill site.
- (2) The amount of tax chargeable on the disposal is to be calculated by multiplying the taxable weight of the material in tonnes by the standard rate.
- (3) The standard rate is the rate per tonne prescribed for the purposes of subsection (2) in regulations.
- (4) Subsection (2) does not apply to the disposal if the material disposed of—
  - (a) consists entirely of one or more qualifying materials (see section 15), or
  - (b) is a qualifying mixture of materials (see section 16).
- (5) The amount of tax chargeable on a disposal of that description is instead to be calculated by multiplying the taxable weight of the material in tonnes by the lower rate.
- (6) The lower rate is the rate per tonne prescribed for the purposes of subsection (5) in regulations.
- (7) Regulations under subsection (3) or (6) may prescribe different rates for different descriptions of material.
- (8) See section 18 for provision about how the taxable weight of the material in a taxable disposal is to be calculated.

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### Commencement Information

**II** S. 14(3)(6) in force at 18.10.2017 for specified purposes by S.I. 2017/955, art. 2(a)

### *Qualifying materials and qualifying mixtures of materials*

VALID FROM 01/04/2018

#### **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.

VALID FROM 01/04/2018

#### **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



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(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
- (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.

## 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)—

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- (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;
  - (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.

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### Commencement Information

**I2** S. 17 in force at 18.10.2017 by S.I. 2017/955, art. 2(b)

VALID FROM 25/01/2018

### *Taxable weight of material*

VALID FROM 01/04/2018

#### **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,

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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).

VALID FROM 01/04/2018

### **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
  - (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;

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- (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.

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- (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.

#### Commencement Information

**I3** S. 21(1)-(5)(7) in force at 25.1.2018 by [S.I. 2018/35](#), [art. 2\(c\)](#)

VALID FROM 01/04/2018

#### 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.

VALID FROM 01/04/2018

#### 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—

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

- (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.
- (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).

### **CHAPTER 3**

#### **RELIEF FROM TAX**

VALID FROM 25/01/2018

#### **26      Reliefs: general**

- (1) This Chapter provides relief from tax for certain taxable disposals.
- (2) This Chapter applies only to disposals made at authorised landfill sites.
- (3) Tax is not chargeable in respect of a taxable disposal if it is relieved from tax.

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(4) Relief from tax must be claimed in a tax return.

VALID FROM 01/04/2018

## **27 Material removed from bed of river, sea or other water**

- (1) A taxable disposal is relieved from tax if it is a disposal of material consisting entirely of—
  - (a) material within subsection (2) or (3), or
  - (b) material within one of those subsections and material within subsection (4).
- (2) Material is within this subsection if it has been removed from the bed of any of the following (whether natural or artificial)—
  - (a) a river, canal or other watercourse, or
  - (b) a dock, harbour or the approaches to a harbour.
- (3) Material is within this subsection if—
  - (a) it consists of naturally occurring mineral material, and
  - (b) it has been removed from the sea bed in the course of operations carried out for the purpose of obtaining materials such as sand or gravel.
- (4) Material is within this subsection if—
  - (a) it is qualifying material,
  - (b) it has been added to material within subsection (2) or (3) for the purpose of securing that that material is not in liquid form, and
  - (c) the amount of material that has been added is no greater than is necessary to achieve that purpose.
- (5) In this section, references to material being removed are to it being removed by dredging or in any other way.

VALID FROM 01/04/2018

## **28 Material resulting from mining and quarrying**

- (1) A taxable disposal is relieved from tax if it is a disposal of material—
  - (a) all of which results from mining operations (whether deep or open-cast) or from quarrying operations,
  - (b) all of which is naturally occurring material extracted from the earth in the course of the operations, and
  - (c) none of which has been subjected to, or results from, a process within subsection (2) carried out at any stage between the extraction and the disposal.
- (2) A process is within this subsection if—
  - (a) it is separate from the mining or quarrying operations, or



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- (b) it forms part of those operations and permanently alters the material's chemical composition.

VALID FROM 25/01/2018

## 29 Using material in approved site restoration work

- (1) A taxable disposal is relieved from tax if—
  - (a) it is a disposal of material consisting entirely of qualifying material, and
  - (b) it forms part of restoration work carried out in accordance with an approval given by WRA.
- (2) WRA may approve the carrying out of restoration work at an authorised landfill site only if—
  - (a) the operator of the site applies in writing to WRA for the approval,
  - (b) the application is made before the restoration work begins, and
  - (c) WRA is satisfied that the work is required by a condition of an environmental permit or planning permission relating to the site.
- (3) An approval—
  - (a) may relate to all or part of the work described in the application for the approval;
  - (b) may relate to work carried out before or after the approval is given (or both);
  - (c) may be unconditional or subject to conditions (for example, a condition requiring reports to WRA about the carrying out of the work).

VALID FROM 25/01/2018

## 30 Site restoration work: procedure on application for approval

- (1) This section applies where the operator of an authorised landfill site has applied to WRA for approval for the carrying out of restoration work.
- (2) WRA may by notice request further information from the operator for the purpose of deciding whether or on what terms to give approval.
- (3) Notice of a request for further information must—
  - (a) be issued within the period of 30 days beginning with the day on which WRA receives the application for approval, and
  - (b) specify the period within which the further information must be provided, which must be at least 30 days beginning with the day on which notice of the request is issued.
- (4) WRA must issue a notice to the operator of its decision on the application within the period of 30 days beginning—
  - (a) if WRA does not request further information, with the day on which WRA receives the application for approval, or
  - (b) if WRA requests further information, with the earlier of—

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- (i) the day on which WRA receives the information, and
  - (ii) the day on which the period for providing the information ends.
- (5) If WRA gives approval, the notice must set out the details of the approval.
- (6) WRA and the operator of an authorised landfill site may agree to extend a period of time specified by or under this section.
- (7) If the period specified in subsection (4) (including any extension agreed under subsection (6)) ends without WRA having issued a notice of its decision, WRA is to be treated as having approved the carrying out of restoration work as described in the application (including any of the work that was carried out between the time when the application was made and the time when that period ended).

VALID FROM 25/01/2018

### **31 Site restoration work: variation of approval**

- (1) This section applies where WRA has approved the carrying out of restoration work at an authorised landfill site.
- (2) The operator of the site may apply in writing to WRA for the variation of the approval; and section 30 applies to an application for a variation as it applies to an application for an approval.
- (3) WRA may vary the approval on its own initiative if satisfied that the variation is necessary to ensure that the approval relates only to restoration work required by a condition of an environmental permit or planning permission relating to the site.
- (4) If WRA varies an approval on its own initiative, it must issue a notice setting out the details of the variation to the operator of the authorised landfill site.
- (5) The variation of an approval does not affect the application of section 29 to restoration work carried out in accordance with the approval before it was varied.

VALID FROM 01/04/2018

### **32 Refilling open-cast mines and quarries**

- (1) A taxable disposal is relieved from tax if—
  - (a) it is a disposal of material consisting entirely of qualifying material,
  - (b) it is made at an authorised landfill site (or part of such a site) that was used for open-cast mining operations or quarrying operations,
  - (c) it is made in accordance with a condition of planning permission relating to the site which requires the site (or the part in question) to be wholly or partially refilled after those operations end, and
  - (d) no other taxable disposals have been made at the site (or at the part in question) since those operations ended, apart from disposals that were relieved from tax under section 28 or this section.

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**Status:** Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.  
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- (2) If the operations mentioned in subsection (1)(b) ended before the coming into force of this section, the reference in subsection (1)(d) to other taxable disposals includes disposals that were taxable disposals for the purposes of Part 3 of the Finance Act 1996 (c. 8) (landfill tax).
- (3) If all open-cast mining operations and quarrying operations at the site ended before 1 October 1999, disposals of material at the site are not relieved from tax under this section unless the requirement mentioned in subsection (1)(c) was imposed on or before that date.

### 33 Power to modify reliefs

- (1) Regulations may—
  - (a) create an additional relief from tax,
  - (b) modify an existing relief, or
  - (c) remove a relief.
- (2) The regulations may provide for a relief to apply subject to conditions (for example, a condition requiring WRA to be notified before a taxable disposal is made).
- (3) The regulations may amend any enactment relating to the tax.

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#### Commencement Information

**I4** S. 33 in force at 18.10.2017 by S.I. 2017/955, art. 2(c)

## CHAPTER 4

### TAX COLLECTION AND MANAGEMENT

VALID FROM 25/01/2018

#### *Registration*

### 34 Register of persons who carry out taxable operations

- (1) WRA must keep a register of persons who carry out taxable operations.
- (2) A person carries out taxable operations if the person is the operator of an authorised landfill site at which taxable disposals are made.
- (3) A person's entry in the register must contain the information specified in Schedule 2.
- (4) The register may contain any other information WRA thinks appropriate for the purposes of collecting and managing the tax.
- (5) WRA may publish information contained in the register.

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

### **35 Duty to be registered**

- (1) A person who carries out taxable operations must be registered with WRA.
- (2) A person who intends to carry out taxable operations but is not registered—
  - (a) must apply in writing to WRA to be registered, and
  - (b) must do so at least 14 days before the day on which the person begins to carry out taxable operations.
- (3) WRA must register the person if satisfied that the application—
  - (a) contains the information WRA requires to register the person, and
  - (b) is in the form (if any) specified by WRA.
- (4) WRA must issue a notice to the person of its decision on the application.
- (5) If WRA registers the person, the notice must set out the person's entry in the register.

### **36 Changes and corrections of information**

- (1) A registered person must give WRA notice of any change of circumstances which causes the person's entry in the register to become inaccurate.
- (2) The notice must be given before the end of the period of 30 days beginning with the day on which the change occurs.
- (3) A person who has provided information to WRA for a purpose relating to registration must give WRA notice if the person discovers an inaccuracy in any of the information.
- (4) The notice must be given before the end of the period of 30 days beginning with the day on which the person discovers the inaccuracy.
- (5) If WRA is satisfied that information contained in the register is inaccurate, it may correct the register (whether or not the registered person to whom the information relates has given WRA notice of the inaccuracy).
- (6) If WRA corrects a person's entry in the register, it must issue a notice to the person setting out the corrected entry.

### **37 Cancellation of registration**

- (1) A registered person who ceases to carry out taxable operations must apply in writing to WRA for the cancellation of the person's registration.
- (2) The application must be made before the end of the period of 30 days beginning with the day on which the person ceases to carry out taxable operations.
- (3) WRA may cancel a person's registration if satisfied that the person has ceased to carry out taxable operations (whether or not the person has applied for the cancellation).
- (4) But WRA may not cancel the person's registration unless satisfied that all of the tax that the person is required to pay has been paid.
- (5) WRA may also cancel a person's registration if satisfied that the person has not carried out taxable operations and does not intend to do so.

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

- (6) If WRA cancels a person's registration, it must issue a notice of the cancellation to the person.

### **38 Reviews and appeals relating to registration**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (h) (inserted by section 24 of this Act) insert—

- “(i) a decision relating to the registration of a person for the purposes of landfill disposals tax;”.

### *Accounting for tax*

VALID FROM 25/01/2018

### **39 Duty to make tax return in respect of accounting period**

- (1) A person who carries out taxable operations must make a tax return to WRA in respect of each accounting period.
- (2) The tax return must contain—
- (a) an assessment of the amount of tax chargeable on the person in respect of the accounting period (see section 41), and
  - (b) either—
    - (i) a declaration by the person that the information contained in the return, and in any document that accompanies the return, is correct and complete to the best of the person's knowledge, or
    - (ii) if the person authorises an agent to complete the return on the person's behalf, a certification by the agent that the person has made a declaration to that effect.
- (3) The tax return must be made on or before the filing date for the return.
- (4) The filing date for the return—
- (a) is the last working day of the month that follows the month in which the accounting period ends, unless the filing date is varied under section 40;
  - (b) if the filing date is varied under section 40, is the date specified in the notice that makes the variation (and if more than one variation is made to the filing date, is the date specified in the notice that makes the last variation).
- (5) The accounting periods in respect of which a person must make a tax return—
- (a) are the periods specified in subsections (6) and (7), unless those periods are varied under section 40;
  - (b) if the periods specified in subsections (6) and (7) are varied under section 40, are the periods specified in the notice that makes the variation (and if more than one variation is made to the accounting periods, are the periods specified in the notice that makes the last variation).
- (6) In the case of a person who is registered—
- (a) the first accounting period is the period—

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- (i) beginning with the day on which the person begins to carry out taxable operations (or, if later, the day on which the person becomes registered), and
  - (ii) ending with a day specified in a notice issued by WRA to the person;
  - (b) the subsequent accounting periods are each subsequent period of 3 months in which the person carries out taxable operations.
- (7) In the case of a person who is not registered—
- (a) the first accounting period is the period—
    - (i) beginning with the day on which the person begins to carry out taxable operations, and
    - (ii) ending with the end of the calendar quarter in which the person begins to do so (or, if sooner, the day before the day on which the person becomes registered);
  - (b) the subsequent accounting periods are each subsequent calendar quarter in which the person carries out taxable operations (but if the person becomes registered before the end of a calendar quarter, the accounting period relating to that quarter ends with the day before the day on which the person becomes registered).
- (8) In this section, “calendar quarter” means a period of 3 months ending with 31 March, 30 June, 30 September or 31 December.

VALID FROM 25/01/2018

#### **40 Power to vary accounting period or filing date**

- (1) WRA may vary—
  - (a) the duration of an accounting period;
  - (b) the filing date for a tax return.
- (2) A variation is made by issuing a notice to the person to whom it applies.
- (3) The notice must set out the details of the variation.
- (4) WRA may issue a notice under this section either—
  - (a) on the application of a person who carries out taxable operations or who intends to do so, or
  - (b) on its own initiative.
- (5) An application for a variation must be made in writing.
- (6) If WRA refuses an application for a variation, it must issue a notice of its decision to the person who made the application.

#### **41 Tax chargeable in respect of accounting period**

- (1) Tax chargeable on a taxable disposal made at an authorised landfill site is chargeable in respect of the accounting period in which the disposal is made.

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- (2) But if the person who carries out taxable operations at the site issues a landfill invoice in respect of the disposal within the period of 14 days beginning with the day on which the disposal is made, the amount of tax chargeable on the disposal is chargeable in respect of the accounting period in which the invoice is issued (rather than the accounting period in which the disposal is made).
- (3) Subsection (2) does not apply to the disposal if the person has given notice to WRA, before the landfill invoice is issued, that the person does not wish to take advantage of it.
- (4) The person may vary or withdraw the notice by giving a further notice to WRA.
- (5) A person who carries out taxable operations, or who intends to do so, may make an application in writing to WRA for subsection (2) to be applied—
  - (a) to all taxable disposals made at an authorised landfill site at which the person carries out taxable operations, or
  - (b) to a description of taxable disposals specified in the application, as if the reference to a period of 14 days were to a longer period.
- (6) WRA must issue a notice to the person of its decision on the application; and if WRA grants the application, the notice must specify the longer period and the taxable disposals in relation to which the longer period is to be applied.
- (7) WRA may vary or withdraw the notice by issuing a further notice to the person.
- (8) In this section, a “landfill invoice” means an invoice which—
  - (a) is issued in respect of a taxable disposal, and
  - (b) contains the information specified in Schedule 3.
- (9) Regulations may amend Schedule 3.

#### Commencement Information

**I5** S. 41(9) in force at 18.10.2017 by S.I. 2017/955, art. 2(d)

VALID FROM 25/01/2018

#### *Payment, recovery and repayment of tax*

VALID FROM 01/04/2018

#### **42 Payment of tax**

- (1) A person who makes a tax return must pay the amount of tax stated in the return as the amount assessed to be chargeable on the person on or before the filing date for the return.
- (2) Where an amount of tax is assessed to be chargeable on the person as a result of an amendment made to the tax return under section 41 of TCMA (amendment of tax return by taxpayer), the person must pay the amount—



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- (a) if the amendment is made on or before the filing date for the return, on or before the filing date, or
  - (b) if the amendment is made after the filing date for the return, on the day that the person gives notice of the amendment to WRA.
- (3) See the following provisions of TCMA for provision about the payment of amounts of tax in other circumstances—
- section 42(4A) (amount payable as a result of a correction made to a tax return by WRA);
  - section 45(4) (amount payable as a result of an amendment made to a tax return during an enquiry);
  - section 50(4) (amount payable as a result of an amendment made to a tax return on the completion of an enquiry);
  - section 52(5) (amount payable in accordance with a WRA determination);
  - section 61(2) (amount payable in accordance with a WRA assessment).

#### **43 Duty to maintain landfill disposals tax summary**

- (1) A person who carries out taxable operations must keep a record (a “landfill disposals tax summary”) of—
- (a) the amount of tax chargeable on the person, and
  - (b) the tax paid by the person,
- in respect of each accounting period.
- (2) WRA may specify—
- (a) the form in which the landfill disposals tax summary must be kept, and
  - (b) the information that must be contained in it.
- (3) The landfill disposals tax summary 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 person is required to make in respect of the accounting period is correct and complete.

VALID FROM 01/04/2018

#### **44 Postponement of recovery**

- (1) Section 181B of TCMA (postponement requests) (inserted by paragraph 63 of Schedule 23 to LTTA) is amended as follows.
- (2) In subsection (3)—
- (a) omit the “and” after paragraph (a), and
  - (b) at the end of paragraph (b) insert “, and
  - (c) where the request relates to an amount of landfill disposals tax, the reasons why the person making the request thinks that recovery of the amount (and interest on that amount) would cause the person financial hardship.”
- (3) In subsection (4)—
- (a) the words from “thinks that” to “excessive,” become paragraph (a), and



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(b) after that paragraph insert “and

(b) where the request relates to an amount of landfill disposals tax, has reason to believe that recovery of the amount (and interest on that amount) would cause the person financial hardship.”.

(4) In subsection (5)—

(a) the words from “thinks that” to “excessive” become paragraph (a), and

(b) for the words from “it may grant” to the end substitute “, or

(b) where the request relates to an amount of landfill disposals tax, has reason to believe that it is only in respect of part of the amount (and interest on that part) that recovery would cause the person financial hardship,

WRA may grant the request in respect of such part of the amount as it thinks appropriate.”

VALID FROM 01/04/2018

#### **45 No requirement to discharge or repay tax unless all tax paid**

In section 67 of TCMA (cases in which WRA need not give effect to a claim), after subsection (11) insert—

“(12) Case 8 is where—

(a) the claim is made in respect of an amount of landfill disposals tax, and

(b) an amount of landfill disposals tax that the claimant is required to pay has not been paid.”

## **PART 4**

### **TAXABLE DISPOSALS MADE AT PLACES OTHER THAN AUTHORISED LANDFILL SITES**

#### **CHAPTER 1**

##### **TAX CHARGEABLE ON TAXABLE DISPOSALS**

#### **46 Calculation of tax chargeable on taxable disposal**

- (1) This section applies to a taxable disposal of material made at a place that is not, and does not form part of, an authorised landfill site.
- (2) The amount of tax chargeable on the disposal is to be calculated by multiplying the taxable weight of the material in tonnes by the unauthorised disposals rate.

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

- (3) The taxable weight of the material is the weight of the material determined by WRA using any method it thinks appropriate.
- (4) The unauthorised disposals rate is the rate per tonne prescribed for the purposes of subsection (2) in regulations.
- (5) Regulations under subsection (4) may prescribe different rates for different descriptions of material.

#### Commencement Information

**I6** S. 46(4) in force at 18.10.2017 for specified purposes by S.I. 2017/955, art. 2(e)

VALID FROM 01/04/2018

## CHAPTER 2

### PROCEDURE FOR CHARGING TAX

#### 47 The charging condition

- (1) For the purposes of this Chapter, a person meets the charging condition in respect of a taxable disposal if the person—
  - (a) made the disposal, or
  - (b) knowingly caused or knowingly permitted the disposal to be made.
- (2) For the purposes of subsection (1)(b)—
  - (a) a person who, at the time of the disposal, controlled, or was in a position to control, a motor vehicle or trailer from which the disposal was made is to be treated as having knowingly caused the disposal to be made, and
  - (b) a person who, at the time of the disposal, was the owner, lessee or occupier of the land where the disposal was made is to be treated as having knowingly permitted the disposal to be made,
 unless the person satisfies WRA or (on appeal) the tribunal that the person did not knowingly cause or knowingly permit the disposal to be made.
- (3) Regulations may make further or different provision about—
  - (a) circumstances in which a person is to be treated as meeting (or not meeting) the charging condition, or
  - (b) matters that are to be taken into account in determining whether a person meets (or does not meet) that condition.
- (4) The regulations may amend any enactment relating to the tax.

#### 48 Power to issue preliminary notice

- (1) WRA may issue a preliminary notice to a person if it appears to WRA that—
  - (a) a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and

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- (b) the person meets the charging condition in respect of the disposal (see section 47).
- (2) A preliminary notice must—
- (a) identify the land where the taxable disposal appears to have been made;
  - (b) describe the circumstances of the disposal and the nature of the material disposed of, so far as they are known to WRA;
  - (c) state when the disposal appears to have been made, and if WRA has estimated when the disposal was made, explain how WRA has made the estimate;
  - (d) explain why WRA thinks that the person to whom the notice is issued meets the charging condition in respect of the disposal;
  - (e) state the amount of the proposed charge to tax on the disposal;
  - (f) explain how that amount has been calculated, including the method used by WRA to determine the taxable weight of the material disposed of.
- (3) A preliminary notice must also inform the person to whom it is issued—
- (a) that a notice will be issued under section 49 after the end of 45 days beginning with the day on which the preliminary notice is issued,
  - (b) that the person may request that WRA extend that period, and
  - (c) that the person may make written representations to WRA at any time before a notice is issued under section 49.
- (4) A single preliminary notice may relate to more than one taxable disposal or to an unascertained number of taxable disposals.
- (5) WRA may not issue a preliminary notice more than 4 years after WRA becomes aware of any taxable disposal to which the notice relates.
- (6) Nor may WRA issue a preliminary notice more than 20 years after the time when it appears to WRA that any taxable disposal to which the notice relates was made.

#### **49 Power to issue charging notice after issuing preliminary notice**

- (1) This section applies where—
- (a) WRA has issued a preliminary notice to a person under section 48, and
  - (b) the period of 45 days beginning with the day on which the notice was issued, or any longer period agreed by WRA, has ended.
- (2) WRA must either—
- (a) issue a charging notice to the person in respect of any of the disposals to which the preliminary notice relates, or
  - (b) issue a notice to the person stating that it does not intend to issue a charging notice to the person in respect of those disposals.
- (3) WRA may issue a charging notice to a person only if satisfied that—
- (a) a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
  - (b) the person meets the charging condition in respect of the disposal.
- (4) In deciding whether to issue a charging notice to a person, WRA must have regard to any written representations made by the person.

*Status: Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.*

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

(5) A charging notice must—

- (a) give details of the taxable disposal or disposals to which the notice relates;
- (b) explain why WRA is satisfied that the person to whom the notice is issued meets the charging condition in respect of the disposal or disposals;
- (c) state the amount of the charge to tax on the disposal or disposals;
- (d) explain how that amount has been calculated, including the method used by WRA to determine the taxable weight of the material disposed of;
- (e) inform the person of the rights to request a review and to appeal against the notice under Part 8 of TCMA.

## **50 Power to issue charging notice without issuing preliminary notice**

(1) This section applies where WRA—

- (a) is satisfied that a person meets the charging condition in respect of a taxable disposal made at a place that is not, and does not form part of, an authorised landfill site, and
- (b) thinks that there is likely to be a loss of tax if it proceeds under sections 48 and 49.

(2) WRA may issue a charging notice to the person without first issuing a preliminary notice.

(3) A charging notice issued under this section must include—

- (a) the information specified in section 49(5), and
- (b) WRA's reasons for issuing the notice without first issuing a preliminary notice.

(4) WRA may not issue a charging notice under this section more than 4 years after WRA becomes aware of any taxable disposal to which the notice relates.

(5) Nor may WRA issue a charging notice under this section more than 20 years after the time when it appears to WRA that any taxable disposal to which the notice relates was made.

## **51 Payment of tax**

(1) A person to whom a charging notice is issued must pay the amount of tax charged by the notice.

(2) The tax must be paid before the end of the period of 30 days beginning with the day on which the notice is issued.

(3) If charging notices are issued to more than one person in respect of the same taxable disposal, all of those persons are jointly and severally liable for the amount of tax charged on the disposal.

## **52 Power to make further provision**

(1) Regulations may make further or different provision about—

- (a) the procedures for issuing preliminary notices and charging notices;
- (b) the payment of an amount of tax charged by a charging notice;

*Status:* Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.

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

- (c) any other matters relating to or arising from the charging or payment of an amount of tax under this Chapter.
- (2) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

### **53 Late payment interest**

- (1) Section 157 of TCMA (late payment interest on devolved taxes) (substituted by paragraph 58 of Schedule 23 to LTTA) is amended as follows.
- (2) After subsection (1) insert—
  - “(1A) This section also applies to an amount of landfill disposals tax charged by a charging notice issued under section 49 or 50 of LDTA.”
- (3) In subsection (3), after paragraph (b) insert—
  - “(c) in the case of an amount falling within subsection (1A), the date immediately after the end of the period specified in section 51 of LDTA.”

## **PART 5**

### **SUPPLEMENTARY PROVISION**

#### **CHAPTER 1**

#### **CHAPTER 1**

### **54 Power to make provision for tax credits**

- (1) Regulations may make provision for circumstances in which a person is to be entitled to a tax credit in respect of the tax.
- (2) The regulations may (among other things) make provision—
  - (a) about conditions to which entitlement to a credit is to be subject;
  - (b) about the amount of a credit;
  - (c) about the way in which a person entitled to a credit is to benefit from it (for example, provision for deductions to be made from the tax that would otherwise be chargeable on a person, and for payments to be made to a person, in circumstances prescribed in the regulations);
  - (d) about the procedure for claiming a credit (for example, provision about information to be provided by a claimant in support of a claim);
  - (e) about conditions to which any benefit in respect of a credit is to be, or may be, made subject (for example, conditions requiring payments or repayments to be made to WRA in circumstances prescribed in the regulations);
  - (f) about circumstances in which WRA may withhold a credit;
  - (g) permitting WRA to require the provision of information and documents, and to inspect premises, either in connection with a requirement imposed under the regulations, or otherwise for the purpose of checking a person's position

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- as respects entitlement to a credit, or as respects a requirement to make a repayment to WRA under the regulations;
- (h) about duties to keep and preserve records;
  - (i) for penalties in respect of failures to comply with requirements imposed by or under the regulations;
  - (j) about reviews and appeals.
- (3) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

#### Commencement Information

**I7** S. 54 in force at 18.10.2017 by S.I. 2017/955, art. 2(f)

VALID FROM 25/01/2018

## 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
  - (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—

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- (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.

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—
- (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;



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- (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).

## **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;”.



*Status:* Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.  
*Changes to legislation:* There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017. (See end of Document for details)

## CHAPTER 3

### INVESTIGATION AND INFORMATION

VALID FROM 25/01/2018

#### 59 Powers of inspection

(1) After section 103 of TCMA (power of WRA to inspect business premises) insert—

**“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).
- (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;

*Status: Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.*

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

- (b) “material”, “specified landfill site activity” and “taxable disposal” have the same meanings as in LDTA.

**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;
  - (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.”
- (2) In section 103 of TCMA, after subsection (7) insert—
- “(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.”

**60 Disclosure of information to WRA**

- (1) A person within subsection (2) may disclose information to WRA for the purpose of assisting it in the collection and management of the tax.

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- (2) The persons are—
  - (a) a county council or county borough council in Wales;
  - (b) the Natural Resources Body for Wales.
- (3) A disclosure under this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (4) But nothing in this section authorises a disclosure which—
  - (a) contravenes the Data Protection Act 1998 (c. 29), or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (c. 25).
- (5) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23) by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 (c. 25) is fully in force, subsection (4)(b) has effect as if it included a reference to that Part.
- (6) Nothing in this section affects any power of any person to disclose information that exists apart from this section.
- (7) Regulations may amend subsection (2) to add, modify or remove a reference to a person or to a description of persons.

#### Commencement Information

**18** S. 60 in force at 8.11.2017 by S.I. 2017/955, art. 3(a)

VALID FROM 25/01/2018

## CHAPTER 4

### PENALTIES UNDER THIS ACT

VALID FROM 01/04/2018

#### *Penalties relating to calculation of taxable weight of material*

**61** **Penalty for failure to determine weight properly**

An operator of an authorised landfill site who fails to determine the weight of the material in a taxable disposal in accordance with section 20 is liable to a penalty not exceeding £500 in respect of each taxable disposal to which the failure relates.

**62** **Penalty for applying water discount incorrectly**

Where the operator of an authorised landfill site, in calculating the taxable weight of the material in a taxable disposal—

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- (a) applies a discount without having approval under section 21 to do so, or
- (b) applies a discount which is greater than the discount approved under section 21,

the operator is liable to a penalty not exceeding £500 in respect of each taxable disposal to which a discount is applied in either of those ways.

### **63 Assessment of penalties under sections 61 and 62**

- (1) Where the operator of an authorised landfill site becomes liable to a penalty under section 61 or 62, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 61 or 62 may be combined with an assessment to tax.
- (3) An assessment of a penalty under section 61 or 62 must be made within the period of 12 months beginning with the day on which WRA first believed that the operator was liable to the penalty.

#### *Penalties relating to registration*

VALID FROM 01/04/2018

### **64 Penalties for carrying out taxable operations without being registered**

- (1) A person who carries out taxable operations in breach of section 35(1) (duty to be registered) is liable to a penalty of £300.
- (2) If a person continues to carry out taxable operations in breach of section 35(1) after the end of the initial penalty period, the person is liable to a further penalty or penalties not exceeding £60 for each day on which the person continues to do so.
- (3) The initial penalty period is the period of 10 days beginning with the day on which a notice of the penalty under subsection (1) is issued to the person.
- (4) In calculating the initial penalty period, no account is to be taken of any day on which a decision relating to the penalty under subsection (1) is the subject of—
  - (a) a review for which a notice of the conclusions has not yet been issued, or
  - (b) an appeal which has not yet been finally determined or withdrawn.

VALID FROM 01/04/2018

### **65 Reasonable excuse for non-compliance**

- (1) If a person who carries out taxable operations in breach of section 35(1) satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for the breach, the person is not liable to a penalty under section 64 in respect of it.

**Status:** Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017. (See end of Document for details)

(2) For the purposes of this section—

- (a) where a person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the breach;
- (b) where a person had a reasonable excuse for a breach but the excuse has ceased, the person is to be treated as having continued to have the excuse if the breach is remedied without unreasonable delay after the excuse ceased.

#### **66 Penalty for failure to comply with other requirements relating to registration**

- (1) A person is liable to a penalty not exceeding £300 if the person fails to comply with a requirement imposed by any of the following provisions—
  - (a) section 35(2) (application to be registered);
  - (b) section 36(1) to (4) (notice of change or inaccuracy);
  - (c) section 37(1) or (2) (application for cancellation of registration).
- (2) But a person is not liable to a penalty under this section in respect of a failure to make an application or give a notice within a limited period of time if the person does so within a further period of time allowed by WRA.

#### **67 Assessment of penalties under sections 64 and 66**

- (1) Where a person becomes liable to a penalty under section 64 or 66, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 64(1) or 66 must be made within the period of 12 months beginning with the day on which WRA first believed that the person was liable to the penalty.
- (3) An assessment of a penalty under section 64(2) must be made within the period of 12 months beginning with the day to which the penalty relates.

VALID FROM 01/04/2018

#### *Penalties relating to non-disposal areas*

#### **68 Penalties relating to non-disposal areas**

- (1) A person who fails to comply with a requirement imposed by or under section 56 or 57 is liable to a penalty not exceeding £3,000.
- (2) But a person is not liable to a penalty under this section in respect of a failure to keep or preserve records if WRA is satisfied that any facts that it reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to it.

**Status:** Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.

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

## **69 Assessment of penalties under section 68**

- (1) Where a person becomes liable to a penalty under section 68, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 68 may be combined with an assessment to tax.
- (3) An assessment of a penalty under section 68 must be made within the period of 12 months beginning with the day on which WRA first believed that the person was liable to the penalty.

### *General*

## **70 Payment of penalties**

A penalty under this Chapter must be paid before the end of the period of 30 days beginning with the day on which the notice of the penalty is issued (but see section 182 of TCMA (payment of penalties in the event of a review or appeal)).

## **71 Double jeopardy**

A person is not liable to a penalty under this Chapter in respect of anything if the person has been convicted of an offence in relation to it.

## **72 Liability of personal representatives**

- (1) If a person liable to a penalty under this Chapter (“P”) has died, any penalty that could have been assessed on P may be assessed on the personal representatives of P.
- (2) A penalty assessed in accordance with subsection (1) is to be paid out of P's estate.

VALID FROM 01/04/2018

## **73 Power to make regulations about penalties**

- (1) Regulations may make further or different provision about—
  - (a) the amounts of penalties under this Chapter, and
  - (b) the procedure for assessing penalties under this Chapter.
- (2) The regulations may amend this Act.

*Status:* Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.

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

VALID FROM 01/04/2018

## CHAPTER 5

### ADDITIONAL PENALTIES UNDER THE TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

#### 74 Penalties for multiple failures to make tax returns

After section 118 of TCMA (penalty for failure to make tax return on or before filing date) insert—

#### **“118A Penalties for multiple failures to make tax returns in respect of landfill disposals tax**

- (1) Where a person becomes liable to a penalty under section 118 in respect of a tax return that the person is required to make under section 39 of LDТА, a penalty period—
  - (a) begins with the day after the filing date for the tax return, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person is required to make another tax return under section 39 of LDТА (“tax return B”) but fails to do so on or before the filing date for tax return B—
  - (a) the person is not liable to a penalty under section 118 in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the filing date for tax return B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to the number of tax returns that the person—
  - (a) has been required to make under section 39 of LDТА during the penalty period, but
  - (b) has failed to make on or before the filing dates for those returns.
- (4) If the failure to make tax return B on or before the filing date is the person's first failure during the penalty period, P is liable to a penalty of £200 in respect of that failure.
- (5) If the failure to make tax return B on or before the filing date is the person's second failure during the penalty period, P is liable to a penalty of £300 in respect of that failure.
- (6) If the failure to make tax return B on or before the filing date is the person's third or subsequent failure during the penalty period, P is liable to a penalty of £400 in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2)(b).”



*Status: Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.*

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

## 75 Penalty for failure to pay tax on time

In section 122 of TCMA (penalty for failure to pay tax on time) (substituted by paragraph 42 of Schedule 23 to LTTA), for subsection (2) substitute—

- “(2) The penalty—
- (a) in respect of an amount of land transaction tax, is 5% of the amount of unpaid tax;
  - (b) in respect of an amount of landfill disposals tax, is 1% of the amount of unpaid tax.”

## 76 Penalties for multiple failures to pay tax on time

After section 122 of TCMA (penalty for failure to pay tax on time) (substituted by paragraph 42 of Schedule 23 to LTTA) insert—

### “122ZA Penalty for multiple failures to pay landfill disposals tax on time

- (1) Where a person becomes liable to a penalty under section 122 in respect of a failure to pay an amount of landfill disposals tax on or before the penalty date, a penalty period—
  - (a) begins with the day after the penalty date, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person fails to pay another amount of landfill disposals tax (“amount B”) on or before the penalty date for that amount—
  - (a) the person is not liable to a penalty under section 122(1) in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the penalty date for amount B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to—
  - (a) amount B, and
  - (b) the number of times during the penalty period on which the person has failed to pay an amount of landfill disposals tax on or before the penalty date for that amount.
- (4) If the failure is the person's first failure during the penalty period, the person is liable to a penalty of 2% of amount B in respect of that failure.
- (5) If the failure is the person's second failure during the penalty period, the person is liable to a penalty of 3% of amount B in respect of that failure.
- (6) If the failure is the person's third or subsequent failure during the penalty period, the person is liable to a penalty of 4% of amount B in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2)(b).”



**Status:** Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017. (See end of Document for details)

## CHAPTER 6

### SPECIAL CASES

VALID FROM 25/01/2018

#### *Corporate groups*

#### **77 Designation of group of companies**

- (1) WRA may designate two or more bodies corporate as a group for the purposes of the tax.
- (2) A designation is made by issuing a notice to each member of the group.
- (3) The notice must specify—
  - (a) the bodies corporate that are members of the group;
  - (b) the member of the group that is the representative member;
  - (c) the date on which the designation takes effect.
- (4) The effects of designating a group are that—
  - (a) the representative member of the group is to be treated for the purposes of the tax as the operator of each authorised landfill site of which a member of the group is the operator;
  - (b) accordingly, a relevant amount that a body corporate would otherwise be required to pay as a result of anything done or omitted to be done while it is a member of the group must instead be paid by the representative member;
  - (c) all of the following are jointly and severally liable for any of the relevant amount that remains unpaid after the date by which the representative member was required to pay it—
    - (i) each body corporate that was a member of the group at the time of the act or omission that gave rise to the requirement to pay the amount, and
    - (ii) any other body corporate that was a member of the group on the date by which the representative member was required to pay the amount.
- (5) WRA may designate a group of bodies corporate only on the application of one or more of those bodies.
- (6) An application to designate a group must be made in writing; and the body or bodies making the application must satisfy WRA that it is made with the agreement of every other proposed member of the group.
- (7) If WRA refuses an application to designate a group, it must issue a notice of its decision to the body or bodies that made the application.
- (8) In this section, “relevant amount” means—
  - (a) an amount of tax;
  - (b) a penalty under an enactment relating to the tax;
  - (c) interest on an amount within paragraph (a) or (b).

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

## **78 Conditions for designation as member of group**

- (1) A body corporate may be designated as a member of a group only if—
  - (a) it carries out taxable operations or intends to do so, and
  - (b) it is under the same control as every other member of the group.
- (2) Two or more bodies corporate are under the same control if—
  - (a) one of them controls all of the others,
  - (b) one body corporate or individual controls all of them, or
  - (c) two or more individuals carrying on business in partnership control all of them.
- (3) For the purposes of subsection (2)—
  - (a) one body corporate (“A”) controls another body corporate (“B”) if—
    - (i) A is empowered by or under an enactment to control B's activities, or
    - (ii) A is B's holding company;
  - (b) an individual or individuals control a body corporate if they would, if they were a company, be the body's holding company.
- (4) In subsection (3), “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006 (c. 46).

## **79 Variation or cancellation of designation**

- (1) Where two or more bodies corporate have been designated as a group, WRA may—
  - (a) vary the designation of the group by—
    - (i) adding or removing a member;
    - (ii) changing the representative member;
  - (b) cancel the designation of the group.
- (2) But WRA must—
  - (a) vary the designation of a group by removing a member if it is satisfied that the member does not meet the conditions in section 78(1);
  - (b) cancel the designation of the group if it is satisfied that the group does not have two or more members that meet those conditions.
- (3) The variation or cancellation of a designation is made by issuing a notice to each member of the group (including, in the case of a variation to add or remove a member, each member that is added or removed).
- (4) The notice must—
  - (a) set out the details of the variation or cancellation, and
  - (b) specify the date on which it takes effect.
- (5) WRA may vary or cancel the designation of a group—
  - (a) on an application made in writing under this section, or
  - (b) on its own initiative.
- (6) An application to vary or cancel the designation of a group may be made by the representative member of the group; but the representative member must satisfy WRA that the application is made with the agreement of every other member of the

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group (including, in the case of an application to vary the designation by adding a member, the member that would be added if the variation were made).

- (7) An application to vary the designation of a group by removing a member may also be made by the member that wishes to be removed; in which case that member must satisfy WRA that every other member of the group has been notified of the application.
- (8) If WRA refuses an application to vary or cancel a designation, it must issue a notice of its decision to the body corporate that made the application.

## **80 Reviews and appeals relating to designation of groups of companies**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (j) (inserted by section 58 of this Act) insert—

“(k) a decision relating to the designation of a group of bodies corporate for the purposes of landfill disposals tax.”

## **81 Power to make further provision about designation of groups of companies**

- (1) Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about the designation of groups of bodies corporate.
- (2) The regulations may (among other things) make provision about the bodies corporate that may be designated as members of a group and about the effects of designation.

VALID FROM 25/01/2018

### *Partnerships and unincorporated bodies*

## **82 Registration of partnerships and unincorporated bodies and changes in membership**

- (1) This section applies where two or more persons carry on a landfill business in partnership or as an unincorporated body.
- (2) WRA may register the persons in their own names or in the name of the partnership or body.
- (3) Where the persons are registered in the name of the partnership or body and its membership changes, the persons who are members after the change continue to be registered in that name if at least one of them was a member before the change.
- (4) A person who ceases to be a member of a partnership or unincorporated body is to be treated as continuing to be a member until the date on which notice of the change in membership is given to WRA under section 36.
- (5) Subsection (4) applies for the purposes of any enactment relating to the tax, but is subject to section 36(3) of the Partnership Act 1890 (c. 39) (liability of estate on death or bankruptcy).

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### **83 Duties and liabilities of partnerships and unincorporated bodies**

- (1) Where anything is required or permitted to be done under an enactment relating to the tax by or in relation to persons carrying on business in partnership, it must be done by or in relation to every person who is a partner at the time when it is done or required to be done.
- (2) But anything that is required or permitted to be done by every partner may instead be done by any of them; and if the partnership's principal place of business is in Scotland, it may also be done by any other person authorised by the partnership.
- (3) Where anything is required or permitted to be done under an enactment relating to the tax by or in relation to persons carrying on business as an unincorporated body, it must be done by or in relation to every person who is a managing member of the body at the time when it is done or required to be done.
- (4) But anything that is required or permitted to be done by every managing member of the body may instead be done by any of them.
- (5) The managing members of an unincorporated body are—
  - (a) each member of the unincorporated body holding office as president, chairman, treasurer, secretary or any similar office;
  - (b) if there is no such office, each member holding office as a member of a committee by which the affairs of the body are managed;
  - (c) if there is no such office or committee, each member of the body.
- (6) A liability to pay a relevant amount as a result of anything done or omitted to be done by persons carrying on business in partnership or as an unincorporated body is a joint and several liability of every person who is a member of the partnership or body at the time when the thing is done or omitted to be done.
- (7) But where—
  - (a) persons carry on a landfill business in partnership or as an unincorporated body, and
  - (b) a person is a member of the partnership or body for only part of an accounting period,
 the person's personal liability for tax chargeable in respect of the accounting period is the proportion of the liability relating to the business of the partnership or body that is just and reasonable in the circumstances.
- (8) In this section, “relevant amount” means—
  - (a) an amount of tax;
  - (b) a penalty under an enactment relating to the tax;
  - (c) interest on an amount within paragraph (a) or (b).

### **84 Power to make further provision about partnerships and unincorporated bodies**

Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about cases where persons carry on business in partnership or as an unincorporated body.

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### Change in persons carrying on landfill business

VALID FROM 01/04/2018

#### 85 Death, incapacity and insolvency

- (1) This section applies where a person (“A”) carries on a landfill business of another person (“B”) who has died, become incapacitated or become subject to an insolvency procedure.
- (2) A must give WRA notice of—
  - (a) the fact that A is carrying on the landfill business, and
  - (b) the nature and date of the event that has led to A carrying it on.
- (3) The notice must be given before the end of the period of 30 days beginning with the day on which A began to carry on the landfill business.
- (4) WRA may treat A as if A were B for the purposes of the tax, with effect from the time when A began to carry on the landfill business; and WRA may do so whether or not A has given notice under subsection (2).
- (5) WRA must issue a notice to A (and, if appropriate, to B) of a decision to treat A as B.
- (6) If WRA treats A in that way, A is not required to be registered, or to apply for registration, by virtue of that treatment.
- (7) If—
  - (a) B ceases to be incapacitated or subject to an insolvency procedure, or
  - (b) A ceases to carry on the landfill business of B,A must give WRA notice of the cessation and the date on which it occurred.
- (8) The notice must be given before the end of the period of 30 days beginning with that date.
- (9) WRA must cease to treat A as B if—
  - (a) WRA is satisfied that either of the conditions in subsection (7) is met (whether or not A has given notice under that subsection), or
  - (b) WRA cancels the registration of B.
- (10) WRA must issue a notice to A (and, if appropriate, to B) of a decision to cease to treat A as B.
- (11) For the purposes of this section, a person becomes subject to an insolvency procedure if—
  - (a) the person is made bankrupt;
  - (b) a company voluntary arrangement takes effect in relation to the person under Part 1 of the Insolvency Act 1986 (c. 45);
  - (c) the person enters administration or goes into liquidation or receivership;
  - (d) any corresponding event occurs which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.

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VALID FROM 01/04/2018

**86 Power to make further provision about death, incapacity and insolvency**

- (1) Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about cases where a person who has carried on a landfill business dies, becomes incapacitated or becomes subject to an insolvency procedure.
- (2) The regulations may (among other things) make provision—
  - (a) about the circumstances in which a person becomes, or ceases to be, incapacitated or subject to an insolvency procedure;
  - (b) about duties, liabilities and entitlements relating to the tax where a person has died, become incapacitated or become subject to an insolvency procedure;
  - (c) which applies whether or not anyone else carries on a person's landfill business after the person dies, becomes incapacitated or becomes subject to an insolvency procedure.

**87 Power to make provision about transfers of businesses as going concerns**

- (1) Regulations may make provision for securing continuity in the application of any enactment relating to the tax where a landfill business is transferred from one person to another as a going concern.
- (2) The regulations may (among other things) make provision—
  - (a) requiring WRA to be notified of the transfer;
  - (b) for any liability or duty of the transferor relating to the tax to become a liability or duty of the transferee;
  - (c) for any entitlement of the transferor to the discharge or repayment of an amount of tax, whether arising before or after the transfer, to become an entitlement of the transferee;
  - (d) for anything done before the transfer by or in relation to the transferor to be treated for the purposes of the tax as having been done by or in relation to the transferee;
  - (e) about duties to keep and preserve records.
- (3) The regulations may make provision that applies subject to conditions, and may in particular—
  - (a) provide that the application to a transferor and transferee of any provision made under subsection (2)(b) to (e) requires the approval of WRA;
  - (b) make provision about the making and determination of applications for approval.
- (4) The regulations may make provision for—
  - (a) penalties in respect of failures to comply with the regulations;
  - (b) reviews and appeals.
- (5) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

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#### Commencement Information

**19** S. 87 in force at 18.10.2017 by S.I. 2017/955, art. 2(g)

## CHAPTER 7

### MISCELLANEOUS

*Further provision relating to the tax*

VALID FROM 01/04/2018

#### **88** Adjustment of contracts

- (1) Where—
- (a) a taxable disposal is made at an authorised landfill site,
  - (b) there is a contract relating to the taxable disposal that provides for a payment to be made, and
  - (c) after the making of the contract, the tax chargeable on the taxable disposal changes as a result of an enactment relating to the tax,
- the amount of the payment provided for under the contract is to be adjusted, unless the contract provides otherwise, to reflect the change in the tax chargeable on the taxable disposal.
- (2) For the purposes of this section, a contract relating to a taxable disposal is a contract providing for the disposal of the material contained in the taxable disposal, and it is immaterial whether the contract also provides for other matters.
- (3) The reference in subsection (1) to a change in the tax chargeable is a reference to a change—
- (a) from no tax being chargeable to tax being chargeable,
  - (b) from tax being chargeable to no tax being chargeable, or
  - (c) in the amount of tax chargeable.

VALID FROM 01/04/2018

#### **89** Power to impose secondary liability on controllers of authorised landfill sites

- (1) Regulations may make provision for and in connection with requiring a controller of an authorised landfill site, or of part of such a site, to pay the tax chargeable on taxable disposals made at the site or part in question.
- (2) A controller of an authorised landfill site or of part of such a site—
- (a) is a person, other than the operator of the site, who determines, or is entitled to determine, what disposals of material may be made throughout the site or part in question, but



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- (b) does not include a person who determines, or is entitled to determine, what disposals are made only because the person is an employee or agent of another person.
- (3) Regulations under this section may (among other things) make provision—
- (a) requiring WRA to be notified if a person becomes, or ceases to be, a controller of an authorised landfill site or of part of such a site;
  - (b) about the circumstances in which a controller is required to pay tax;
  - (c) for determining the amount of tax a controller is required to pay;
  - (d) about the relationship between a requirement for a controller to pay tax and any liability of the operator of the authorised landfill site to pay tax;
  - (e) about the procedure for requiring a controller to pay tax;
  - (f) about when the tax must be paid;
  - (g) about duties to keep and preserve records;
  - (h) for penalties in respect of failures to comply with the regulations;
  - (i) for reviews and appeals.
- (4) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

VALID FROM 25/01/2018

**90 Minor and consequential amendments to the Tax Collection and Management (Wales) Act 2016**

Schedule 4 makes minor and consequential amendments to TCMA.

**Commencement Information**

**I10** S. 90 in force at 25.1.2018 for specified purposes by [S.I. 2018/35](#), [art. 2\(x\)](#)

**91 Welsh Ministers' exercise of powers and duties under this Act**

- (1) In exercising their powers and duties under this Act, the Welsh Ministers—
- (a) must have regard to the objective of reducing landfill disposals in Wales;
  - (b) may have regard to such other matters as they think appropriate.
- (2) Subsection (1) does not apply to the exercise of powers and duties under section 92.

**Commencement Information**

**I11** S. 91 in force at 18.10.2017 by [S.I. 2017/955](#), [art. 2\(h\)](#)



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

### Landfill Disposals Tax Communities Scheme

#### 92 Landfill Disposals Tax Communities Scheme

- (1) The Welsh Ministers must prepare and publish a Landfill Disposals Tax Communities Scheme on or before the day on which this Act comes fully into force.
- (2) The Scheme must make provision for grants to be given by the Welsh Ministers to persons engaged in activities which the Welsh Ministers consider will promote or improve the social or environmental well-being of areas in Wales affected by—
  - (a) the making of landfill disposals, or
  - (b) activities preparatory to the making of landfill disposals.
- (3) The Scheme may provide for the grants—
  - (a) to be allocated by reference to criteria specified in the Scheme;
  - (b) to be subject to conditions specified in the Scheme or by the Welsh Ministers.
- (4) The Welsh Ministers—
  - (a) must review the Scheme—
    - (i) at least once in the period of 4 years beginning with the day on which it is first published, and
    - (ii) subsequently, at least once in each period of 4 years beginning with the day on which the previous review is concluded, and
  - (b) must consult such persons as they think appropriate when doing so.
- (5) The Welsh Ministers may revise or revoke the Scheme following a review; but the Scheme may not be revoked within the period of 4 years beginning with the day on which it is first published.
- (6) If the Scheme is revised, the Welsh Ministers must publish the revised Scheme.
- (7) The Welsh Ministers must lay the Scheme, and any revised Scheme, before the National Assembly for Wales.

#### Commencement Information

**I12** S. 92 in force at 8.11.2017 by S.I. 2017/955, art. 3(b)

## PART 6

### FINAL PROVISIONS

#### 93 Power to make consequential and transitional etc. provision

- (1) Regulations may make—
  - (a) any incidental, consequential or supplemental provision, or
  - (b) any transitional, transitory or saving provision,
 that the Welsh Ministers think appropriate for the purposes of, in connection with, or for giving full effect to, any provision contained in or made under this Act.

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- (2) Regulations under this section may amend, revoke or repeal any enactment (including any enactment contained in or made under this Act).
- (3) In this section, “enactment” means an enactment (whenever enacted or made) which is, or is contained in—
  - (a) an Act of Parliament,
  - (b) an Act or a Measure of the National Assembly for Wales, or
  - (c) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made under—
    - (i) an Act of Parliament, or
    - (ii) an Act or a Measure of the National Assembly for Wales.

#### **94 Regulations under this Act: general**

- (1) Regulations under this Act are to be made by the Welsh Ministers.
- (2) A power to make regulations under this Act—
  - (a) is exercisable by statutory instrument;
  - (b) includes power to make different provision for different purposes.
- (3) A statutory instrument containing only regulations within subsection (4) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (4) Regulations are within this subsection if they are—
  - (a) regulations made under section 16(3) (maximum percentage of non-qualifying materials to be contained in a qualifying mixture of materials),
  - (b) regulations made under section 41(9) (contents of landfill invoice), or
  - (c) regulations made under section 93 which meet the condition in subsection (5).
- (5) The condition is that the Welsh Ministers are satisfied that the regulations do not make any provision that may—
  - (a) cause the amount of tax chargeable on a taxable disposal to be greater than the amount that would otherwise be chargeable on the disposal, or
  - (b) cause tax to be chargeable where no tax would otherwise be chargeable.
- (6) Any other statutory instrument containing regulations under this Act, other than one to which section 95 applies, may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

#### **95 Regulations changing tax rates**

- (1) This section applies to a statutory instrument containing only—
  - (a) the second or subsequent regulations made under—
    - (i) section 14(3) (standard rate of tax);
    - (ii) section 14(6) (lower rate of tax);
    - (iii) section 46(4) (unauthorised disposals rate of tax);
  - (b) regulations made under section 93 which make provision that the Welsh Ministers think appropriate for the purposes of, in connection with, or for giving full effect to, any provision contained in regulations within paragraph (a).

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- (2) The statutory instrument must be laid before the National Assembly for Wales.
- (3) If the instrument is not approved by resolution of the National Assembly for Wales during the period of 28 days beginning with the day on which the instrument is made, the regulations cease to have effect at the end of that period.
- (4) But if—
- (a) the National Assembly for Wales votes on a motion for a resolution to approve the instrument before the last day of that period, and
  - (b) the motion is not passed,
- the regulations cease to have effect at the end of the day on which the vote takes place.
- (5) If—
- (a) regulations cease to have effect by virtue of subsection (3) or (4),
  - (b) a taxable disposal was made at a time when the regulations were in force, and
  - (c) the amount of tax chargeable on the disposal by virtue of the regulations is greater than the amount that would otherwise have been chargeable,
- the regulations are to be treated as never having had effect in relation to that disposal.
- (6) In calculating the period of 28 days mentioned in subsections (3) and (4), no account is to be taken of any period during which the National Assembly for Wales is—
- (a) dissolved, or
  - (b) in recess for more than 4 days.

## 96 Interpretation

- (1) In this Act—

“accounting period” (“*cyfnod cyfrifyddu*”) has the meaning given by section 39(5);

“authorised landfill site” (“*safle tirlenwi awdurdodedig*”) has the meaning given by section 5(1);

“enactment relating to the tax” (“*deddfiad sy'n ymwneud â'r dreth*”) means—

- (a) this Act and regulations made under it;
- (b) TCMA and regulations made under it, as they apply in relation to the tax;

“environmental permit” (“*trwydded amgylcheddol*”) has the meaning given by section 5(2);

“filing date” (“*dyddiad ffeilio*”), in relation to a tax return, has the meaning given by section 39(4);

“land” (“*tir*”) includes land covered by water where the land is above the low water mark of ordinary spring tides;

“landfill business” (“*busnes tirlenwi*”) means a business, or a part of a business, in the course of which a person carries out taxable operations;

“landfill disposal” (“*gwarediad tirlenwi*”) means a disposal of material—

- (a) by way of landfill, and
- (b) as waste;

“landfill disposal area” (“*man gwarediadau tirlenwi*”) means an area of a landfill site where landfill disposals are made, or where such disposals have been or will be made;

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“landfill site” (“*safle tirlenwi*”) means—

- (a) an authorised landfill site, or
- (b) any other land where landfill disposals are made;

“landfill site activity” (“*gweithgarwch safle tirlenwi*”) means receiving, keeping, sorting, using, treating, recovering or doing anything else with material at a landfill site;

“LTTA” (“*DTTT*”) means the Land Transaction Tax and Anti-avoidance of Devolved Taxes (Wales) Act 2017 (anaw 1);

“material” (“*deunydd*”) means material of all kinds, including objects, substances and products of all kinds;

“non-disposal area” (“*man nad yw at ddibenion gwaredu*”) means an area designated under section 55;

“notice” (“*hysbysiad*”) means notice in writing;

“operator” (“*gweithredwr*”), in relation to an authorised landfill site, has the meaning given by section 7(4);

“partnership” (“*partneriaeth*”) means—

- (a) a partnership within the Partnership Act 1890 (c. 39),
- (b) a limited partnership registered under the Limited Partnerships Act 1907 (c. 24), or
- (c) a partnership or entity of a similar character formed under the law of a country or territory outside the United Kingdom;

“qualifying material” (“*deunydd cymwys*”) has the meaning given by section 15;

“qualifying mixture of materials” (“*cymysgedd cymwys o ddeunyddiau*”) has the meaning given by section 16;

“the register” (“*y gofrestr*”) means the register kept under section 34;

“registered” (“*cofrestredig*”) means registered under section 35 and “registration” (“*cofrestru*”) means registration under that section;

“restoration work” (“*gwaith adfer*”) has the meaning given by section 8(4);

“tax” (“*treth*”) means landfill disposals tax;

“tax return” (“*ffurflen dreth*”) means a tax return that a person is required to make under section 39;

“TCMA” (“*DCRht*”) means the Tax Collection and Management (Wales) Act 2016 (anaw 6);

“the tribunal” (“*y tribiwnlys*”) means—

- (a) the First-tier Tribunal, or
- (b) where determined by or under Tribunal Procedure Rules, the Upper Tribunal;

“unincorporated body” (“*corff anghorfforedig*”) does not include a partnership;

“WRA” (“*ACC*”) means the Welsh Revenue Authority.

(2) In this Act—

- (a) references to a disposal of material by way of landfill are to be interpreted in accordance with section 4;
- (b) references to a disposal of material as waste are to be interpreted in accordance with section 6 (and see also section 7);

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- (c) references to a specified landfill site activity are to be interpreted in accordance with section 8;
  - (d) references to a person carrying out taxable operations are to be interpreted in accordance with section 34(2).
- (3) For the purposes of this Act, an appeal is finally determined when—
- (a) it has been determined, and
  - (b) there is no further possibility of the determination being varied or set aside (disregarding any power to grant permission to appeal out of time).
- (4) For the purposes of this Act, a description may be framed by reference to any matters or circumstances whatsoever.

## **97 Coming into force**

- (1) Part 1 (overview) and this Part come into force on the day after the day on which this Act receives Royal Assent.
- (2) The other provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (3) An order under subsection (2) may appoint different days for different purposes.

## **98 Short title**

The short title of this Act is the Landfill Disposals Tax (Wales) Act 2017.

**Status:**

Point in time view as at 08/11/2017. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

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