

# LANDFILL DISPOSALS TAX (WALES) ACT 2017

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3 - Taxable Disposals Made at Authorised Landfill Sites**

##### *Chapter 2 – Tax Chargeable on Taxable Disposals*

#### **Taxable weight of material**

##### *Sections 18 to 20 – Calculation of taxable weight of material, Calculation of taxable weight of material by operator and Determination of weight of material by operator*

40. LDT is charged on a taxable disposal by multiplying the taxable weight of the material by the tax rate applicable, as set out at section 14. Therefore an accurate calculation of the taxable weight of the material being disposed of is important.
41. **Section 18** provides that the taxable weight of the material in a taxable disposal (made at an authorised landfill site) must be calculated by the landfill site operator and may be calculated by WRA if it thinks it appropriate to do so. This section also specifies the taxable weight that applies for the purposes of section 14(2) and (5) of the Act.
42. **Section 19** sets out how an operator must calculate the taxable weight of the material in a taxable disposal. The landfill site operator must determine the weight of the material in tonnes in accordance with section 20. Where a landfill site operator has approval to apply a discount in respect of water present in material, the landfill site operator may apply the discount (or a lesser discount) to the weight determined, subject to the conditions of the approval (if any).
43. **Section 20** requires the landfill site operator to determine the weight of the material in a taxable disposal by using a weighbridge. For this purpose, the landfill site operator must ensure that the material is weighed on the weighbridge before the disposal is made, and that the weighbridge meets the requirements set out in applicable weights and measures legislation.
44. There may however be circumstances where it is not possible for a landfill site operator to use a weighbridge. For example, a landfill site may not have a weighbridge or a weighbridge may have broken down. Section 20(3) therefore makes provision for a landfill site operator to make an application to WRA for approval to use an alternative method to determine the weight of material in a taxable disposal. For example, an alternative method may include a calculation based on the maximum permitted weight of a container.
45. **Section 20** also makes provision for WRA to specify the manner in which an application for an alternative method is to be made and the information it must contain. This section makes further provision about the powers of WRA in relation to an approval for an alternative method. For example, WRA may give approval in relation to all taxable disposals or to particular descriptions of taxable disposals. WRA may give approval unconditionally or subject to conditions. Further, WRA may vary or revoke

*These notes refer to the Landfill Disposals Tax (Wales) Act  
2017 (c.3) which received Royal Assent on 7 September 2017*

an agreement; this may occur if WRA consider the alternative method is not giving an accurate indication of the weight or is not being fully observed and there is a risk to the tax revenue.

46. There is a penalty for failing to determine the weight of the material in a taxable disposal in accordance with section 20. This is set out in section 61 of the Act.

***Section 21 – Discount in respect of water content of material***

47. [Section 21\(1\)](#) and [\(2\)](#) provide that a landfill site operator may apply in writing to WRA for approval to apply a discount in respect of water present in material when calculating the taxable weight of the material. [Section 21\(4\)](#) sets out the conditions that must be met in order for WRA to give approval for a water discount.
48. This section makes further provision about the powers of WRA in relation to an approval to discount water. For example, approval may be subject to conditions or may be given for a fixed period.
49. The provisions also require a landfill site operator to keep a water discount record in relation to each taxable disposal to which a discount is applied. The record is to be treated as being a record required to be kept and preserved in accordance with section 38 of TCMA, which sets out the relevant time period for retaining records.
50. There is a penalty for applying water discount incorrectly. This is set out in section 62 of the Act.

***Sections 22 and 23 – Calculation of taxable weight of material by WRA including in cases of non-compliance***

51. [Section 22](#) details how WRA is to calculate the taxable weight of material where it thinks it is appropriate to do so.
52. [Section 23](#) provides that in cases of non-compliance as set out in this section, WRA may ignore or reduce the water discount when calculating the taxable weight of material.

***Section 24 – Reviews and appeals relating to method for determining weight of material***

53. [Section 24](#) amends section 172 of TCMA so that the review and appeals procedures in Part 8 of that Act apply to decisions under section 20 of this Act.

***Section 25 – Power to modify provision relating to taxable weight of material***

54. [Section 25](#) allows the Welsh Ministers by regulations to add to, repeal or otherwise amend any provision in the Act relating to the taxable weight of material (including provision relating to water discount).