

# 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 4 – Tax Collection and Management*

#### *Sections 34 to 38 – Registration*

67. To enable WRA to effectively collect and manage LDT, it is important that it is aware of who the taxpayers are. Section 34 places a duty on WRA to keep a register of those persons who operate authorised landfill sites at which taxable disposals are made. Such persons are considered to be carrying out “taxable operations” for the purposes of this Act. A person’s entry in the register must contain the information specified in Schedule 2. WRA may wish to publish any information that is contained in the register so that, among other things, businesses can ensure they are sending their waste to authorised landfill sites.
68. [Section 35](#) requires a person who carries out taxable operations to be registered with WRA. A person who intends to carry out taxable operations must apply to WRA to be registered and the application must be made at least 14 days before the taxable operations begin.
69. It is important for the register to remain accurate and reflect the most up-to-date information available regarding landfill site operators. Therefore, section 36 requires a registered person, or a person who has applied for registration, to give notice to WRA of any changes or inaccuracies in the information they have provided and to do so in a way that complies with the requirements of that section.
70. [Section 37](#) requires a registered person who ceases to carry out taxable operations to apply to WRA for the cancellation of their registration no later than 30 days after taxable operations end.
71. There are penalties associated with the registration requirements in sections 35 and 36. These are set out in sections 64 to 67 of the Act.
72. [Section 38](#) amends section 172(2) of TCMA so that the review and appeals procedures in Part 8 of that Act apply to decisions relating to the registration of a person with WRA for the purposes of LDT.

#### *Sections 39 to 41 – Accounting for tax*

73. These sections of the Act and these notes should be read in conjunction with Part 3, Chapter 3 of TCMA and the relevant explanatory notes (paragraphs 46 and 47), which accompany TCMA.
74. [Section 39](#) places a duty on the operator of an authorised landfill site at which taxable disposals are made to make a tax return in respect of each accounting period. The return must contain an assessment of the amount of tax chargeable on the operator and a

declaration that the information they have provided is correct and complete to the best of the operator's knowledge.

75. Tax returns must be submitted along with any payment of tax no later than the last working day of the month that follows the month in which the accounting period ends, unless this date is varied under section 40. For example, if an accounting period ends on the 30 June, a tax return must be submitted and payment of tax made by the last working day in July.
76. For registered landfill site operators, the first accounting period begins on the day on which they begin to carry out taxable operations (or, if later, the day on which they become registered) and ends on the day notified to them by WRA. From then on, their accounting periods will be each subsequent period of 3 months (unless those periods are varied under section 40).
77. For landfill site operators that have not registered, the first accounting period begins on the day on which they begin to carry out taxable operations and runs until the end of the calendar quarter in which they begin to do so (or, if sooner, the day before the day on which they become registered). From then on, the accounting periods will be every calendar quarter (a period of 3 months ending with 31 March, 30 June, 30 September or 31 December).
78. [Section 40](#) provides WRA with the power to vary the duration of an accounting period and the filing date for a tax return. Any such variation is to be made by issuing a notice to the landfill site operator.
79. [Section 41](#) provides that the 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. There is one exception to this rule, however: if a landfill site operator issues a landfill invoice in respect of a disposal within 14 days beginning with the day the disposal is made, the tax then becomes chargeable in respect of the accounting period in which the invoice is issued. So, for example, where a landfill site operator's accounting periods are calendar quarters and a taxable disposal is made on 28 June for which a landfill invoice is issued on 1 July, the accounting period for the tax on that disposal will be the calendar quarter ending 30 September, rather than the calendar quarter ending 30 June. Schedule 3 sets out the information that needs to be contained in a landfill invoice. The Welsh Ministers have the power to make regulations to amend Schedule 3.

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

### ***Section 42 - Payment of tax***

80. Subsection (1) states that the amount of tax assessed as being chargeable must be paid by the filing date for the tax return. Subsection (2) sets out the position where a tax return is amended under section 41 of TCMA and results in an additional amount of tax needing to be paid. In these circumstances, the tax must be paid no later than that filing date, if the amendment is made before the filing date, or, if the amendment is made later, the tax must be paid at the same time as the amendment is made.

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

81. [Section 43](#) requires a person who carries out taxable operations to keep a LDT summary in respect of each accounting period. This record must record the amount of tax chargeable on the person and the tax paid by that person in respect of each accounting period. WRA has the power to specify the form in which the LDT summary must be kept and the information that must be contained in it. This record is to be treated as a record required to be kept and preserved under section 38 of TCMA, which requires records to be kept for six years from the making of a return or notice of amendment, unless WRA specifies a shorter period.

***Section 44 – Postponement of recovery***

82. Sections 181A-181I of TCMA set out circumstances in which a person may request WRA postpone the recovery of devolved tax pending a review or appeal of a WRA decision, the process for making such a request and the effect of a postponement request being granted. Act.
83. **Section 44** amends section 181B of TCMA for the purposes of postponement requests relating to LDT. The effect of the amendments are to require WRA, when considering an LDT postponement request, to consider not only whether a person has reasonable grounds for stating that the amount of tax is excessive (as would be the case for other devolved taxes), but also whether recovery of the amount would cause financial hardship. A person's request for postponement must therefore address the reasons why that person thinks that recovery would cause them financial hardship, in addition to setting out the amount that they are seeking to postpone and why they think the amount of tax that WRA is seeking to recover is excessive.
84. A postponement request may be granted in full when the tests at section 181B(4) of TCMA, as amended by section 44(3), are met, or may be granted in relation to part of a disputed amount in accordance with section 181B(5) as amended by section 44(4)(b).

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

85. **Section 45** amends section 67 of TCMA. This amendment ensures that WRA does not need to give effect to a claim for relief under section 63 of TCMA where an amount of landfill disposals tax that the claimant is required to pay has not been paid.