

# LANDFILL DISPOSALS TAX (WALES) ACT 2017

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 5 - Supplementary Provision**

#### *Chapter 2 - Non-Disposal Areas*

#### *Section 55 – Designation of Non-Disposal Area*

102. A non-disposal area will be created on an authorised landfill site either because the landfill site operator makes an application for a non-disposal area to be created or because WRA requires the creation of such an area.
103. This section allows WRA to designate a part of an authorised landfill site as a non-disposal area by issuing a notice to the operator of the site. This is intended to enable WRA to distinguish between those activities on a landfill site which constitute taxable disposals and those which are non-taxable uses of waste. This is important to determine the correct tax liability.
104. Subsection (3) sets out the information WRA may or must specify in the designation notice to enable the landfill site operator to manage the non-disposal area. Amongst other things, WRA must state what material has to be placed in an area and may also state what material must not be placed in an area; for example, WRA could issue a notice stating that standard rate material must not be placed in a non-disposal area in which qualifying material is being stored.
105. Subsection (4) provides that the notice may include conditions or exceptions and may make different provision for different cases. A condition could for example, require the landfill site operator to act in a way that is acceptable under the terms of its environmental permit. This provision provides flexibility to enable WRA to adapt a non-disposal area designation on a case by case basis, recognising that every landfill site is different.
106. Subsections (5) to (7) give WRA power to vary or cancel a designation notice and sets out the process for doing so. As with the original designation of a non-disposal area, a variation or cancellation can arise as a result of an application from the landfill site operator or can be instigated by WRA.
107. Applications to make, vary or cancel a non-disposal area designation notice must be made in writing and WRA may specify the form, content and manner of delivery of such a notice (under section 191 of TCMA). Subsection (9) requires WRA to issue a notice to the landfill site operator if it refuses an application to make, vary or cancel a non-disposal area designation.
108. Regulations may amend this section to make further or different provision about the contents of a notice issued under this section.