



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

## PART 3

TAXABLE DISPOSALS MADE AT AUTHORISED LANDFILL SITES

### 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).

#### Commencement Information

II [S. 13](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

### 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.

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*Changes to legislation: There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 3. (See end of Document for details)*

- (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.

#### **Commencement Information**

- I2** S. 14(1)(2)(4)(5)(7)(8) in force at 1.4.2018 by S.I. 2018/35, **art. 3**
- I3** S. 14(3)(6) in force at 18.10.2017 for specified purposes by S.I. 2017/955, **art. 2(a)**
- I4** S. 14(3)(6) in force at 1.4.2018 in so far as not already in force by S.I. 2018/35, **art. 3**

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

## **15 Qualifying material**

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

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

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

*Requirement 3* There is—

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

from which it can be determined that requirements 1 and 2 are met.
- (2) Regulations may amend Schedule 1.

#### **Commencement Information**

- I5** S. 15 in force at 1.4.2018 by S.I. 2018/35, **art. 3**

*Status: Point in time view as at 19/07/2019.*

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## 16 Qualifying mixtures of materials

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

*Requirement 1* The mixture consists of—

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

*Requirement 2* There is—

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

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

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

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

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

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

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

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

- (2) For the purposes of requirement 1—
- (a) both the weight and the volume of the non-qualifying materials must be taken into account in determining whether the amount of those materials is to be treated as a small amount;
  - (b) the potential that the non-qualifying materials have to cause harm must be taken into account in determining whether those materials are to be treated as incidental to the qualifying materials.
- (3) Regulations may provide that an amount of non-qualifying materials is not to be treated as a small amount for the purposes of requirement 1 if it constitutes more than a prescribed percentage of the mixture of materials (by weight or volume or both).
- (4) Regulations may amend this section to—
- (a) add a further requirement to subsection (1),
  - (b) modify an existing requirement,
  - (c) remove a requirement, or

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- (d) make further provision about matters that must or may be taken into account for the purposes of determining whether a requirement is met, or modify or remove existing provision about those matters.
- (5) In this section—
- “arrangement” (“*trefniant*”) has the meaning given in section 81B(3) of TCMA;
  - “fines” (“*gronynnau mân*”) has the meaning given in section 17(6);
  - “non-qualifying material” (“*deunydd anghymwys*”) means a material that is not a qualifying material;
  - “prescribed” (“*rhagnodedig*”) means prescribed in regulations.

#### Commencement Information

**16** S. 16 in force at 1.4.2018 by S.I. 2018/35, art. 3

### 17 Qualifying mixture of materials: fines

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

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

#### **Commencement Information**

**I7** S. 17 in force at 18.10.2017 by S.I. 2017/955, art. 2(b)

### *Taxable weight of material*

## **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—

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- (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, 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).

**Commencement Information**

**18** [S. 18](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

**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.

**Commencement Information**

**19** [S. 19](#) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

**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—

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- (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;
  - (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.

#### **Commencement Information**

**I10** S. 20(1)(2)(7)(8) in force at 1.4.2018 by S.I. 2018/35, art. 3

**I11** S. 20(3)-(6) in force at 25.1.2018 by S.I. 2018/35, art. 2(b)

## **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.

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- (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.
- (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**

**I12** S. 21(1)-(5)(7) in force at 25.1.2018 by [S.I. 2018/35, art. 2\(c\)](#)

**I13** S. 21(6)(8) in force at 1.4.2018 by [S.I. 2018/35, art. 3](#)

**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.

**Commencement Information**

**I14** S. 22 in force at 1.4.2018 by [S.I. 2018/35, art. 3](#)



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## **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—
  - (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).

### **Commencement Information**

**I15** S. 23 in force at 1.4.2018 by S.I. 2018/35, art. 3

## **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;”.

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**Commencement Information**

**I16** S. 24 in force at 25.1.2018 by S.I. 2018/35, art. 2(d)

**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).

**Commencement Information**

**I17** S. 25 in force at 25.1.2018 by S.I. 2018/35, art. 2(d)

## CHAPTER 3

### RELIEF FROM TAX

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

**Commencement Information**

**I18** S. 26 in force at 25.1.2018 by S.I. 2018/35, art. 2(d)

**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.

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- (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.

**Commencement Information**

**I19** S. 27 in force at 1.4.2018 by S.I. 2018/35, art. 3

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

**Commencement Information**

**I20** S. 28 in force at 1.4.2018 by S.I. 2018/35, art. 3

**29 Using material in approved site restoration work**

- (1) A taxable disposal is relieved from tax if—
- [<sup>F1</sup>(a) it is a disposal of material—
- (i) consisting entirely of qualifying material, or
  - (ii) consisting entirely of top-soil, 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.

*Status: Point in time view as at 19/07/2019.*

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- (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).

#### Textual Amendments

**F1** S. 29(1)(a) substituted (11.10.2018) by [The Landfill Disposals Tax \(Wales\) Act 2017 \(Site Restoration Relief\) \(Amendment\) Regulations 2018 \(S.I. 2018/1057\)](#), regs. 1(2), 2

#### Commencement Information

**I21** S. 29(1) in force at 1.4.2018 by [S.I. 2018/35](#), art. 3

**I22** S. 29(2)(3) in force at 25.1.2018 by [S.I. 2018/35](#), art. 2(e)

### 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—
    - (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).

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#### Commencement Information

**I23** S. 30 in force at 25.1.2018 by S.I. 2018/35, art. 2(f)

### 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.

#### Commencement Information

**I24** S. 31 in force at 25.1.2018 by S.I. 2018/35, art. 2(g)

### 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
    - [<sup>F2</sup>(i) qualifying material, or
    - (ii) a qualifying mixture of materials that does not consist entirely of fines;]
  - (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 [<sup>F3</sup>or disposals that would be relieved from tax under this section if they were made now].
- (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

*Status: Point in time view as at 19/07/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 3. (See end of Document for details)*

section unless the requirement mentioned in subsection (1)(c) was imposed on or before that date.

#### Textual Amendments

- F2** Words in s. 32(1)(a) substituted (19.7.2019) by [The Landfill Disposals Tax \(Wales\) Act 2017 \(Reliefs\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1143\)](#), regs. 1(2), **3(a)**
- F3** Words in s. 32(1)(d) inserted (19.7.2019) by [The Landfill Disposals Tax \(Wales\) Act 2017 \(Reliefs\) \(Miscellaneous Amendments\) Regulations 2019 \(S.I. 2019/1143\)](#), regs. 1(2), **3(b)**

#### Commencement Information

- I25** S. 32 in force at 1.4.2018 by [S.I. 2018/35](#), **art. 3**

### 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.

#### Commencement Information

- I26** S. 33 in force at 18.10.2017 by [S.I. 2017/955](#), **art. 2(c)**

## CHAPTER 4

### TAX COLLECTION AND MANAGEMENT

#### *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.

*Status: Point in time view as at 19/07/2019.*

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#### Commencement Information

**I27** S. 34 in force at 25.1.2018 by S.I. 2018/35, art. 2(h)

### 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.

#### Commencement Information

**I28** S. 35(1) in force at 1.4.2018 by S.I. 2018/35, art. 3

**I29** S. 35(2)-(5) in force at 25.1.2018 by S.I. 2018/35, art. 2(i)

### 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.

#### Commencement Information

**I30** S. 36 in force at 25.1.2018 by S.I. 2018/35, art. 2(j)

*Status: Point in time view as at 19/07/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 3. (See end of Document for details)*

### 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
  - [<sup>F4</sup>(a)] all of the tax that the person is required to pay has been paid[<sup>F5</sup>, and
  - (b) all of the tax credit to which the person is entitled and which the person has claimed—
    - (i) has been set off against an amount of tax that the person would otherwise be required to pay, or
    - (ii) has been paid to the person.]
- (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.
- (6) If WRA cancels a person's registration, it must issue a notice of the cancellation to the person.

#### Textual Amendments

- F4** S. 37(4)(a): words in s. 37(4) renumbered as s. 37(4)(a) (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 2(a)**
- F5** S. 37(4)(b) and word inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), **Sch. para. 2(b)**

#### Commencement Information

- I31** S. 37(1)-(4) in force at 1.4.2018 by [S.I. 2018/35](#), **art. 3**
- I32** S. 37(5)(6) in force at 25.1.2018 by [S.I. 2018/35](#), **art. 2(k)**

### 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;”.

#### Commencement Information

- I33** S. 38 in force at 25.1.2018 by [S.I. 2018/35](#), **art. 2(l)**



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*Changes to legislation: There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 3. (See end of Document for details)*

### *Accounting for tax*

## **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—
    - (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);

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- (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.

#### Commencement Information

**I34** S. 39(1)-(4) in force at 1.4.2018 by S.I. 2018/35, art. 3

**I35** S. 39(5)-(8) in force at 25.1.2018 by S.I. 2018/35, art. 2(m)

#### 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.

#### Commencement Information

**I36** S. 40 in force at 25.1.2018 by S.I. 2018/35, art. 2(n)

#### 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.
- (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.

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- (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**

**I37** S. 41(1)-(8) in force at 1.4.2018 by S.I. 2018/35, art. 3

**I38** S. 41(9) in force at 18.10.2017 by S.I. 2017/955, art. 2(d)

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

#### **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.

[<sup>F6</sup>(1A) But if an amount of tax credit is set off against that amount of tax in accordance with regulations made under section 54, the amount of tax that the person is required to pay by that date is the amount that remains outstanding after the set-off (if any).]

- (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—
  - (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);

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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).

#### Textual Amendments

**F6** S. 42(1A) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 3](#)

#### Commencement Information

**I39** S. 42 in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

### 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, <sup>F7</sup>...
  - [<sup>F8</sup>(aa) the amount of tax credit claimed by 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.

#### Textual Amendments

**F7** Word in s. 43(1)(a) omitted (1.4.2018) by virtue of [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 4\(a\)](#)

**F8** S. 43(1)(aa) inserted (1.4.2018) by [The Landfill Disposals Tax \(Administration\) \(Wales\) Regulations 2018 \(S.I. 2018/101\)](#), reg. 1(2), [Sch. para. 4\(b\)](#)

#### Commencement Information

**I40** S. 43(1)(3) in force at 1.4.2018 by [S.I. 2018/35](#), [art. 3](#)

**I41** S. 43(2) in force at 25.1.2018 by [S.I. 2018/35](#), [art. 2\(o\)](#)

### 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

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- (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
  - (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. ”

**Commencement Information**

**I42** S. 44 in force at 1.4.2018 by S.I. 2018/35, art. 3

**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.”

**Commencement Information**

**I43** S. 45 in force at 1.4.2018 by S.I. 2018/35, art. 3

**Status:**

Point in time view as at 19/07/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 3.