Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

PART 6 E+W

FINAL PROVISIONS

93 Power to make consequential and transitional etc. provision E+W

(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.

(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 E+W

(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.

Changes to legislation: *There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 6. (See end of Document for details)*

(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 E+W

(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).

(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 E+W

(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;

"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;

[[F1]"tax credit" ("*credyd treth*") means a tax credit under regulations made under section 54;**]**

"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);

(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.

Textual Amendments

F1 Words in s. 96(1) inserted (1.4.2018) by The Landfill Disposals Tax (Administration) (Wales) Regulations 2018 (S.I. 2018/101), reg. 1(2), **Sch. para. 7**

97 Coming into force E+W

(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 E+W

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

Changes to legislation:
There are currently no known outstanding effects for the Landfill Disposals Tax (Wales) Act 2017, PART 6.