



# Landfill Disposals Tax (Wales) Act 2017

2017 anaw 3

VALID FROM 18/10/2017

## PART 5

### SUPPLEMENTARY PROVISION

#### CHAPTER 1

#### CHAPTER 1

#### **54 Power to make provision for tax credits**

- (1) Regulations may make provision for circumstances in which a person is to be entitled to a tax credit in respect of the tax.
- (2) The regulations may (among other things) make provision—
  - (a) about conditions to which entitlement to a credit is to be subject;
  - (b) about the amount of a credit;
  - (c) about the way in which a person entitled to a credit is to benefit from it (for example, provision for deductions to be made from the tax that would otherwise be chargeable on a person, and for payments to be made to a person, in circumstances prescribed in the regulations);
  - (d) about the procedure for claiming a credit (for example, provision about information to be provided by a claimant in support of a claim);
  - (e) about conditions to which any benefit in respect of a credit is to be, or may be, made subject (for example, conditions requiring payments or repayments to be made to WRA in circumstances prescribed in the regulations);
  - (f) about circumstances in which WRA may withhold a credit;
  - (g) permitting WRA to require the provision of information and documents, and to inspect premises, either in connection with a requirement imposed under

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- the regulations, or otherwise for the purpose of checking a person's position as respects entitlement to a credit, or as respects a requirement to make a repayment to WRA under the regulations;
- (h) about duties to keep and preserve records;
  - (i) for penalties in respect of failures to comply with requirements imposed by or under the regulations;
  - (j) about reviews and appeals.
- (3) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

VALID FROM 25/01/2018

## CHAPTER 2

### NON-DISPOSAL AREAS

#### 55 Designation of non-disposal area

- (1) WRA may designate a part of an authorised landfill site in Wales as a non-disposal area by issuing a notice to the operator of the site.
- (2) A notice designating a non-disposal area must specify—
  - (a) the authorised landfill site to which it relates,
  - (b) the boundaries of the area that it designates, and
  - (c) the date on which the designation of the area takes effect.
- (3) The notice—
  - (a) must specify the descriptions of material that must be deposited in the non-disposal area,
  - (b) may specify descriptions of material that must not be deposited in the area,
  - (c) must require the weight of any material that is deposited in or removed from the area to be determined using a method specified in the notice,
  - (d) may specify a maximum amount of material that may be kept in the area,
  - (e) must specify the landfill site activities that may be carried out in the area, and
  - (f) must specify the maximum period for which material may be kept in the area.
- (4) The provision made by the notice under subsection (3) may include—
  - (a) provision that is subject to conditions or exceptions, and
  - (b) different provision for different cases (including different descriptions of material).
- (5) WRA may vary or cancel a designation under this section by issuing a further notice to the operator of the site.
- (6) A notice varying or cancelling a designation—
  - (a) must set out the details of the variation or cancellation,
  - (b) must specify the date on which it takes effect, and

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- (c) may specify steps that the operator is required or permitted to take in connection with the variation or cancellation.
- (7) WRA may make, vary or cancel a designation under this section—
  - (a) on the application of the operator of the authorised landfill site to which the designation relates, or
  - (b) on its own initiative.
- (8) An application for a designation, variation or cancellation must be made in writing.
- (9) If WRA refuses an application, it must issue a notice of its decision to the operator of the authorised landfill site.
- (10) Regulations may amend this section to make further or different provision about the contents of a notice issued under this section.

VALID FROM 01/04/2018

## **56 Duties of operator in relation to non-disposal area**

- (1) Where—
  - (a) a notice is in force designating a part of an authorised landfill site as a non-disposal area, and
  - (b) there is material at the site which is of a description specified in the notice as material which must, or must not, be deposited in the area,
 the operator of the site must ensure that the material is dealt with in accordance with the provisions of the notice.
- (2) Subsection (1) ceases to apply in relation to material if a taxable disposal of the material is made outside the non-disposal area.
- (3) Subsection (1) does not apply in relation to material if—
  - (a) a taxable disposal of the material is going to be made immediately after it is produced at or brought onto the authorised landfill site, or
  - (b) the material is in transit between places outside the site and is going to be removed from the site immediately.
- (4) Nor does that subsection apply if—
  - (a) WRA agrees in a particular case that material may be dealt with otherwise than in accordance with the provisions of the notice designating the non-disposal area, and
  - (b) the material is dealt with in accordance with the agreement.
- (5) An agreement given by WRA under subsection (4)(a)—
  - (a) may be unconditional or subject to conditions;
  - (b) may provide that anything done in relation to material identified in the agreement is to be treated as having been done in relation to other material of the same description at the authorised landfill site;
  - (c) may relate to things done before the agreement is given if WRA is satisfied that the operator of the site could not reasonably have been expected to obtain its agreement before they were done.

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(6) See section 8(3)(g) for provision which treats a taxable disposal as being made if material is kept in a non-disposal area beyond the end of the maximum period specified in the notice designating the area, unless the material is dealt with in accordance with an agreement under subsection (4)(a).

(7) Regulations may amend this section to make further or different provision about circumstances in which subsection (1) does not apply (or ceases to apply).

### **57 Duties to keep and preserve records**

- (1) Where part of an authorised landfill site has been designated as a non-disposal area, the operator of the site must keep records relating to material that is deposited in the area.
- (2) The records must be sufficient to enable WRA to determine whether the operator is complying, or has complied, with section 56 in relation to the material.
- (3) WRA may specify—
  - (a) the form in which the records must be kept, and
  - (b) the information that must be contained in them.
- (4) The operator must preserve the records until the end of the period of 6 years beginning with the date on which the material is removed from the non-disposal area, or ceases to be material of a description that must be deposited in the area, whichever is earlier.
- (5) But an agreement given under section 56(4)(a) in relation to material may require the operator to preserve the records relating to the material until the end of a period of 6 years beginning with a different date (whether earlier or later) from the one specified in subsection (4).
- (6) See Chapter 2 of Part 3 of TCMA for other duties to keep and preserve records which apply where a taxable disposal is treated as being made by virtue of section 8(3)(g).

### **58 Reviews and appeals relating to designation of non-disposal areas**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (i) (inserted by section 38 of this Act) insert—

- “(j) a decision relating to the designation of a non-disposal area for the purposes of landfill disposals tax;”.

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VALID FROM 08/11/2017

## CHAPTER 3

### INVESTIGATION AND INFORMATION

VALID FROM 25/01/2018

#### 59 Powers of inspection

- (1) After section 103 of TCMA (power of WRA to inspect business premises) insert—

**“103A Further power to inspect business premises: landfill disposals tax**

- (1) If WRA has grounds for believing that the following conditions are met, WRA may enter a person's business premises and inspect—
- the premises;
  - business assets that are on the premises;
  - relevant business documents that are on the premises (but see section 110).
- (2) The first condition is that the person is or has been involved in any capacity with a disposal of material that is or may be a taxable disposal.
- (3) The second condition is that the inspection of the premises is required for the purpose of checking the position of another person as regards landfill disposals tax in respect of the disposal concerned.
- (4) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).
- (5) In this section, “relevant business documents” means business documents that relate to matters relevant to the position of a person as regards landfill disposals tax.
- (6) The circumstances in which WRA is to be treated as having grounds for believing that the first condition is met include (for example) circumstances where WRA has grounds for believing that the person—
- is, or has been, involved in any capacity with receiving, transporting or supplying any material for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal, or
  - is, or has been, involved in any capacity in subjecting any material to any procedure or use, or otherwise in dealing with or making arrangements in respect of any material, for purposes connected with or preparatory to a disposal of material that is or may be a taxable disposal.

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(7) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.

(8) In this section—

- (a) references to a disposal of material include the carrying out of a specified landfill site activity in relation to material;
- (b) “material”, “specified landfill site activity” and “taxable disposal” have the same meanings as in LDTA.

**103B Further power to inspect premises: taxable disposals made at places other than authorised landfill sites**

(1) This section applies if WRA has grounds for believing—

- (a) that a disposal of material that is or may be a taxable disposal has been made at a place that is not, and does not form part of, an authorised landfill site, and
- (b) that the inspection of premises within subsection (3) is required for one or more of the purposes listed in subsection (4).

(2) WRA may enter the premises and inspect—

- (a) the premises, and
- (b) anything on the premises (including documents).

(3) Premises are within this subsection if WRA has reason to believe that—

- (a) the disposal was made at them, or
- (b) the occupier of the premises meets, or may meet, the charging condition in respect of the disposal.

(4) The purposes are—

- (a) determining whether the disposal was made at the premises;
- (b) identifying the nature or origin of the material disposed of;
- (c) identifying the date on which the disposal was made;
- (d) determining whether the disposal is a taxable disposal;
- (e) determining the weight of the material disposed of;
- (f) determining the amount of any proposed charge to tax under LDTA on the disposal;
- (g) identifying a person who meets, or may meet, the charging condition in respect of the disposal.

(5) Subsections (2) to (7) of section 103 apply in respect of an inspection under this section as they apply in respect of an inspection under section 103(1).

(6) In this section—

- (a) “authorised landfill site”, “material” and “taxable disposal” have the same meanings as in LDTA;
- (b) references to a person meeting the charging condition have the same meaning as in Chapter 2 of Part 4 of LDTA.”

(2) In section 103 of TCMA, after subsection (7) insert—

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“(8) An inspection of premises is not to be carried out under this section if WRA has the power to carry out the inspection under section 103B.”

## **60 Disclosure of information to WRA**

- (1) A person within subsection (2) may disclose information to WRA for the purpose of assisting it in the collection and management of the tax.
- (2) The persons are—
  - (a) a county council or county borough council in Wales;
  - (b) the Natural Resources Body for Wales.
- (3) A disclosure under this section does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (4) But nothing in this section authorises a disclosure which—
  - (a) contravenes the Data Protection Act 1998 (c. 29), or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016 (c. 25).
- (5) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23) by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 (c. 25) is fully in force, subsection (4)(b) has effect as if it included a reference to that Part.
- (6) Nothing in this section affects any power of any person to disclose information that exists apart from this section.
- (7) Regulations may amend subsection (2) to add, modify or remove a reference to a person or to a description of persons.

VALID FROM 25/01/2018

## **CHAPTER 4**

### **PENALTIES UNDER THIS ACT**

VALID FROM 01/04/2018

*Penalties relating to calculation of taxable weight of material*

## **61 Penalty for failure to determine weight properly**

An operator of an authorised landfill site who fails to determine the weight of the material in a taxable disposal in accordance with section 20 is liable to a penalty not exceeding £500 in respect of each taxable disposal to which the failure relates.



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## **62 Penalty for applying water discount incorrectly**

Where the operator of an authorised landfill site, in calculating the taxable weight of the material in a taxable disposal—

- (a) applies a discount without having approval under section 21 to do so, or
- (b) applies a discount which is greater than the discount approved under section 21,

the operator is liable to a penalty not exceeding £500 in respect of each taxable disposal to which a discount is applied in either of those ways.

## **63 Assessment of penalties under sections 61 and 62**

- (1) Where the operator of an authorised landfill site becomes liable to a penalty under section 61 or 62, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 61 or 62 may be combined with an assessment to tax.
- (3) An assessment of a penalty under section 61 or 62 must be made within the period of 12 months beginning with the day on which WRA first believed that the operator was liable to the penalty.

### *Penalties relating to registration*

VALID FROM 01/04/2018

## **64 Penalties for carrying out taxable operations without being registered**

- (1) A person who carries out taxable operations in breach of section 35(1) (duty to be registered) is liable to a penalty of £300.
- (2) If a person continues to carry out taxable operations in breach of section 35(1) after the end of the initial penalty period, the person is liable to a further penalty or penalties not exceeding £60 for each day on which the person continues to do so.
- (3) The initial penalty period is the period of 10 days beginning with the day on which a notice of the penalty under subsection (1) is issued to the person.
- (4) In calculating the initial penalty period, no account is to be taken of any day on which a decision relating to the penalty under subsection (1) is the subject of—
  - (a) a review for which a notice of the conclusions has not yet been issued, or
  - (b) an appeal which has not yet been finally determined or withdrawn.



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#### **65 Reasonable excuse for non-compliance**

- (1) If a person who carries out taxable operations in breach of section 35(1) satisfies WRA or (on appeal) the tribunal that there is a reasonable excuse for the breach, the person is not liable to a penalty under section 64 in respect of it.
- (2) For the purposes of this section—
  - (a) where a person relies on another person to do anything, that is not a reasonable excuse unless the first person took reasonable care to avoid the breach;
  - (b) where a person had a reasonable excuse for a breach but the excuse has ceased, the person is to be treated as having continued to have the excuse if the breach is remedied without unreasonable delay after the excuse ceased.

#### **66 Penalty for failure to comply with other requirements relating to registration**

- (1) A person is liable to a penalty not exceeding £300 if the person fails to comply with a requirement imposed by any of the following provisions—
  - (a) section 35(2) (application to be registered);
  - (b) section 36(1) to (4) (notice of change or inaccuracy);
  - (c) section 37(1) or (2) (application for cancellation of registration).
- (2) But a person is not liable to a penalty under this section in respect of a failure to make an application or give a notice within a limited period of time if the person does so within a further period of time allowed by WRA.

#### **67 Assessment of penalties under sections 64 and 66**

- (1) Where a person becomes liable to a penalty under section 64 or 66, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 64(1) or 66 must be made within the period of 12 months beginning with the day on which WRA first believed that the person was liable to the penalty.
- (3) An assessment of a penalty under section 64(2) must be made within the period of 12 months beginning with the day to which the penalty relates.

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VALID FROM 01/04/2018

*Penalties relating to non-disposal areas*

**68 Penalties relating to non-disposal areas**

- (1) A person who fails to comply with a requirement imposed by or under section 56 or 57 is liable to a penalty not exceeding £3,000.
- (2) But a person is not liable to a penalty under this section in respect of a failure to keep or preserve records if WRA is satisfied that any facts that it reasonably requires to be proved, and which would have been proved by the records, are proved by other documentary evidence provided to it.

**69 Assessment of penalties under section 68**

- (1) Where a person becomes liable to a penalty under section 68, WRA must—
  - (a) assess the penalty, and
  - (b) issue a notice to the person of the penalty assessed.
- (2) An assessment of a penalty under section 68 may be combined with an assessment to tax.
- (3) An assessment of a penalty under section 68 must be made within the period of 12 months beginning with the day on which WRA first believed that the person was liable to the penalty.

*General*

**70 Payment of penalties**

A penalty under this Chapter must be paid before the end of the period of 30 days beginning with the day on which the notice of the penalty is issued (but see section 182 of TCMA (payment of penalties in the event of a review or appeal)).

**71 Double jeopardy**

A person is not liable to a penalty under this Chapter in respect of anything if the person has been convicted of an offence in relation to it.

**72 Liability of personal representatives**

- (1) If a person liable to a penalty under this Chapter (“P”) has died, any penalty that could have been assessed on P may be assessed on the personal representatives of P.
- (2) A penalty assessed in accordance with subsection (1) is to be paid out of P’s estate.

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VALID FROM 01/04/2018

### 73 Power to make regulations about penalties

- (1) Regulations may make further or different provision about—
  - (a) the amounts of penalties under this Chapter, and
  - (b) the procedure for assessing penalties under this Chapter.
- (2) The regulations may amend this Act.

VALID FROM 01/04/2018

## CHAPTER 5

### ADDITIONAL PENALTIES UNDER THE TAX COLLECTION AND MANAGEMENT (WALES) ACT 2016

### 74 Penalties for multiple failures to make tax returns

After section 118 of TCMA (penalty for failure to make tax return on or before filing date) insert—

#### “118A Penalties for multiple failures to make tax returns in respect of landfill disposals tax

- (1) Where a person becomes liable to a penalty under section 118 in respect of a tax return that the person is required to make under section 39 of LDTA, a penalty period—
  - (a) begins with the day after the filing date for the tax return, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person is required to make another tax return under section 39 of LDTA (“tax return B”) but fails to do so on or before the filing date for tax return B—
  - (a) the person is not liable to a penalty under section 118 in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the filing date for tax return B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to the number of tax returns that the person—
  - (a) has been required to make under section 39 of LDTA during the penalty period, but
  - (b) has failed to make on or before the filing dates for those returns.

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- (4) If the failure to make tax return B on or before the filing date is the person's first failure during the penalty period, P is liable to a penalty of £200 in respect of that failure.
- (5) If the failure to make tax return B on or before the filing date is the person's second failure during the penalty period, P is liable to a penalty of £300 in respect of that failure.
- (6) If the failure to make tax return B on or before the filing date is the person's third or subsequent failure during the penalty period, P is liable to a penalty of £400 in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2) (b).”

#### **75 Penalty for failure to pay tax on time**

In section 122 of TCMA (penalty for failure to pay tax on time) (substituted by paragraph 42 of Schedule 23 to LTTA), for subsection (2) substitute—

- “(2) The penalty—
- (a) in respect of an amount of land transaction tax, is 5% of the amount of unpaid tax;
  - (b) in respect of an amount of landfill disposals tax, is 1% of the amount of unpaid tax.”

#### **76 Penalties for multiple failures to pay tax on time**

After section 122 of TCMA (penalty for failure to pay tax on time) (substituted by paragraph 42 of Schedule 23 to LTTA) insert—

##### **“122ZA Penalty for multiple failures to pay landfill disposals tax on time**

- (1) Where a person becomes liable to a penalty under section 122 in respect of a failure to pay an amount of landfill disposals tax on or before the penalty date, a penalty period—
  - (a) begins with the day after the penalty date, and
  - (b) ends 12 months later, unless extended under subsection (2)(b).
- (2) If, before the end of the penalty period, the person fails to pay another amount of landfill disposals tax (“amount B”) on or before the penalty date for that amount—
  - (a) the person is not liable to a penalty under section 122(1) in respect of that failure but is liable to a penalty under this section instead, and
  - (b) the penalty period is extended so that it ends 12 months after the penalty date for amount B.
- (3) The amount of the penalty to which a person is liable under this section is determined by reference to—
  - (a) amount B, and

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- (b) the number of times during the penalty period on which the person has failed to pay an amount of landfill disposals tax on or before the penalty date for that amount.
- (4) If the failure is the person's first failure during the penalty period, the person is liable to a penalty of 2% of amount B in respect of that failure.
- (5) If the failure is the person's second failure during the penalty period, the person is liable to a penalty of 3% of amount B in respect of that failure.
- (6) If the failure is the person's third or subsequent failure during the penalty period, the person is liable to a penalty of 4% of amount B in respect of that failure.
- (7) A penalty period may be extended more than once under subsection (2) (b).”

## CHAPTER 6

### SPECIAL CASES

VALID FROM 25/01/2018

#### *Corporate groups*

#### **77 Designation of group of companies**

- (1) WRA may designate two or more bodies corporate as a group for the purposes of the tax.
- (2) A designation is made by issuing a notice to each member of the group.
- (3) The notice must specify—
- the bodies corporate that are members of the group;
  - the member of the group that is the representative member;
  - the date on which the designation takes effect.
- (4) The effects of designating a group are that—
- the representative member of the group is to be treated for the purposes of the tax as the operator of each authorised landfill site of which a member of the group is the operator;
  - accordingly, a relevant amount that a body corporate would otherwise be required to pay as a result of anything done or omitted to be done while it is a member of the group must instead be paid by the representative member;
  - all of the following are jointly and severally liable for any of the relevant amount that remains unpaid after the date by which the representative member was required to pay it—
    - each body corporate that was a member of the group at the time of the act or omission that gave rise to the requirement to pay the amount, and

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(ii) any other body corporate that was a member of the group on the date by which the representative member was required to pay the amount.

- (5) WRA may designate a group of bodies corporate only on the application of one or more of those bodies.
- (6) An application to designate a group must be made in writing; and the body or bodies making the application must satisfy WRA that it is made with the agreement of every other proposed member of the group.
- (7) If WRA refuses an application to designate a group, it must issue a notice of its decision to the body or bodies that made the application.
- (8) In this section, “relevant amount” means—
- (a) an amount of tax;
  - (b) a penalty under an enactment relating to the tax;
  - (c) interest on an amount within paragraph (a) or (b).

#### **78 Conditions for designation as member of group**

- (1) A body corporate may be designated as a member of a group only if—
- (a) it carries out taxable operations or intends to do so, and
  - (b) it is under the same control as every other member of the group.
- (2) Two or more bodies corporate are under the same control if—
- (a) one of them controls all of the others,
  - (b) one body corporate or individual controls all of them, or
  - (c) two or more individuals carrying on business in partnership control all of them.
- (3) For the purposes of subsection (2)—
- (a) one body corporate (“A”) controls another body corporate (“B”) if—
    - (i) A is empowered by or under an enactment to control B's activities, or
    - (ii) A is B's holding company;
  - (b) an individual or individuals control a body corporate if they would, if they were a company, be the body's holding company.
- (4) In subsection (3), “holding company” has the meaning given by section 1159 of, and Schedule 6 to, the Companies Act 2006 (c. 46).

#### **79 Variation or cancellation of designation**

- (1) Where two or more bodies corporate have been designated as a group, WRA may—
- (a) vary the designation of the group by—
    - (i) adding or removing a member;
    - (ii) changing the representative member;
  - (b) cancel the designation of the group.
- (2) But WRA must—

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- (a) vary the designation of a group by removing a member if it is satisfied that the member does not meet the conditions in section 78(1);
  - (b) cancel the designation of the group if it is satisfied that the group does not have two or more members that meet those conditions.
- (3) The variation or cancellation of a designation is made by issuing a notice to each member of the group (including, in the case of a variation to add or remove a member, each member that is added or removed).
- (4) The notice must—
- (a) set out the details of the variation or cancellation, and
  - (b) specify the date on which it takes effect.
- (5) WRA may vary or cancel the designation of a group—
- (a) on an application made in writing under this section, or
  - (b) on its own initiative.
- (6) An application to vary or cancel the designation of a group may be made by the representative member of the group; but the representative member must satisfy WRA that the application is made with the agreement of every other member of the group (including, in the case of an application to vary the designation by adding a member, the member that would be added if the variation were made).
- (7) An application to vary the designation of a group by removing a member may also be made by the member that wishes to be removed; in which case that member must satisfy WRA that every other member of the group has been notified of the application.
- (8) If WRA refuses an application to vary or cancel a designation, it must issue a notice of its decision to the body corporate that made the application.

## **80      Reviews and appeals relating to designation of groups of companies**

In section 172 of TCMA (appealable decisions), in subsection (2), after paragraph (j) (inserted by section 58 of this Act) insert—

- “(k) a decision relating to the designation of a group of bodies corporate for the purposes of landfill disposals tax.”

## **81      Power to make further provision about designation of groups of companies**

- (1) Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about the designation of groups of bodies corporate.
- (2) The regulations may (among other things) make provision about the bodies corporate that may be designated as members of a group and about the effects of designation.



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VALID FROM 25/01/2018

*Partnerships and unincorporated bodies*

**82 Registration of partnerships and unincorporated bodies and changes in membership**

- (1) This section applies where two or more persons carry on a landfill business in partnership or as an unincorporated body.
- (2) WRA may register the persons in their own names or in the name of the partnership or body.
- (3) Where the persons are registered in the name of the partnership or body and its membership changes, the persons who are members after the change continue to be registered in that name if at least one of them was a member before the change.
- (4) A person who ceases to be a member of a partnership or unincorporated body is to be treated as continuing to be a member until the date on which notice of the change in membership is given to WRA under section 36.
- (5) Subsection (4) applies for the purposes of any enactment relating to the tax, but is subject to section 36(3) of the Partnership Act 1890 (c. 39) (liability of estate on death or bankruptcy).

**83 Duties and liabilities of partnerships and unincorporated bodies**

- (1) Where anything is required or permitted to be done under an enactment relating to the tax by or in relation to persons carrying on business in partnership, it must be done by or in relation to every person who is a partner at the time when it is done or required to be done.
- (2) But anything that is required or permitted to be done by every partner may instead be done by any of them; and if the partnership's principal place of business is in Scotland, it may also be done by any other person authorised by the partnership.
- (3) Where anything is required or permitted to be done under an enactment relating to the tax by or in relation to persons carrying on business as an unincorporated body, it must be done by or in relation to every person who is a managing member of the body at the time when it is done or required to be done.
- (4) But anything that is required or permitted to be done by every managing member of the body may instead be done by any of them.
- (5) The managing members of an unincorporated body are—
  - (a) each member of the unincorporated body holding office as president, chairman, treasurer, secretary or any similar office;
  - (b) if there is no such office, each member holding office as a member of a committee by which the affairs of the body are managed;
  - (c) if there is no such office or committee, each member of the body.
- (6) A liability to pay a relevant amount as a result of anything done or omitted to be done by persons carrying on business in partnership or as an unincorporated body

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is a joint and several liability of every person who is a member of the partnership or body at the time when the thing is done or omitted to be done.

(7) But where—

- (a) persons carry on a landfill business in partnership or as an unincorporated body, and
- (b) a person is a member of the partnership or body for only part of an accounting period,

the person's personal liability for tax chargeable in respect of the accounting period is the proportion of the liability relating to the business of the partnership or body that is just and reasonable in the circumstances.

(8) In this section, “relevant amount” means—

- (a) an amount of tax;
- (b) a penalty under an enactment relating to the tax;
- (c) interest on an amount within paragraph (a) or (b).

#### **84 Power to make further provision about partnerships and unincorporated bodies**

Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about cases where persons carry on business in partnership or as an unincorporated body.

#### *Change in persons carrying on landfill business*

VALID FROM 01/04/2018

#### **85 Death, incapacity and insolvency**

- (1) This section applies where a person (“A”) carries on a landfill business of another person (“B”) who has died, become incapacitated or become subject to an insolvency procedure.
- (2) A must give WRA notice of—
  - (a) the fact that A is carrying on the landfill business, and
  - (b) the nature and date of the event that has led to A carrying it on.
- (3) The notice must be given before the end of the period of 30 days beginning with the day on which A began to carry on the landfill business.
- (4) WRA may treat A as if A were B for the purposes of the tax, with effect from the time when A began to carry on the landfill business; and WRA may do so whether or not A has given notice under subsection (2).
- (5) WRA must issue a notice to A (and, if appropriate, to B) of a decision to treat A as B.
- (6) If WRA treats A in that way, A is not required to be registered, or to apply for registration, by virtue of that treatment.
- (7) If—

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- (a) B ceases to be incapacitated or subject to an insolvency procedure, or
  - (b) A ceases to carry on the landfill business of B,
- A must give WRA notice of the cessation and the date on which it occurred.
- (8) The notice must be given before the end of the period of 30 days beginning with that date.
- (9) WRA must cease to treat A as B if—
- (a) WRA is satisfied that either of the conditions in subsection (7) is met (whether or not A has given notice under that subsection), or
  - (b) WRA cancels the registration of B.
- (10) WRA must issue a notice to A (and, if appropriate, to B) of a decision to cease to treat A as B.
- (11) For the purposes of this section, a person becomes subject to an insolvency procedure if—
- (a) the person is made bankrupt;
  - (b) a company voluntary arrangement takes effect in relation to the person under Part 1 of the Insolvency Act 1986 (c. 45);
  - (c) the person enters administration or goes into liquidation or receivership;
  - (d) any corresponding event occurs which has effect under or as a result of the law of Scotland or Northern Ireland or a country or territory outside the United Kingdom.

VALID FROM 01/04/2018

#### **86 Power to make further provision about death, incapacity and insolvency**

- (1) Regulations may add to, repeal or otherwise amend any provision made by an enactment relating to the tax about cases where a person who has carried on a landfill business dies, becomes incapacitated or becomes subject to an insolvency procedure.
- (2) The regulations may (among other things) make provision—
- (a) about the circumstances in which a person becomes, or ceases to be, incapacitated or subject to an insolvency procedure;
  - (b) about duties, liabilities and entitlements relating to the tax where a person has died, become incapacitated or become subject to an insolvency procedure;
  - (c) which applies whether or not anyone else carries on a person's landfill business after the person dies, becomes incapacitated or becomes subject to an insolvency procedure.

#### **87 Power to make provision about transfers of businesses as going concerns**

- (1) Regulations may make provision for securing continuity in the application of any enactment relating to the tax where a landfill business is transferred from one person to another as a going concern.

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- (2) The regulations may (among other things) make provision—
  - (a) requiring WRA to be notified of the transfer;
  - (b) for any liability or duty of the transferor relating to the tax to become a liability or duty of the transferee;
  - (c) for any entitlement of the transferor to the discharge or repayment of an amount of tax, whether arising before or after the transfer, to become an entitlement of the transferee;
  - (d) for anything done before the transfer by or in relation to the transferor to be treated for the purposes of the tax as having been done by or in relation to the transferee;
  - (e) about duties to keep and preserve records.
- (3) The regulations may make provision that applies subject to conditions, and may in particular—
  - (a) provide that the application to a transferor and transferee of any provision made under subsection (2)(b) to (e) requires the approval of WRA;
  - (b) make provision about the making and determination of applications for approval.
- (4) The regulations may make provision for—
  - (a) penalties in respect of failures to comply with the regulations;
  - (b) reviews and appeals.
- (5) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

## CHAPTER 7

### MISCELLANEOUS

*Further provision relating to the tax*

VALID FROM 01/04/2018

#### **88 Adjustment of contracts**

- (1) Where—
  - (a) a taxable disposal is made at an authorised landfill site,
  - (b) there is a contract relating to the taxable disposal that provides for a payment to be made, and
  - (c) after the making of the contract, the tax chargeable on the taxable disposal changes as a result of an enactment relating to the tax,the amount of the payment provided for under the contract is to be adjusted, unless the contract provides otherwise, to reflect the change in the tax chargeable on the taxable disposal.

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- (2) For the purposes of this section, a contract relating to a taxable disposal is a contract providing for the disposal of the material contained in the taxable disposal, and it is immaterial whether the contract also provides for other matters.
- (3) The reference in subsection (1) to a change in the tax chargeable is a reference to a change—
  - (a) from no tax being chargeable to tax being chargeable,
  - (b) from tax being chargeable to no tax being chargeable, or
  - (c) in the amount of tax chargeable.

VALID FROM 01/04/2018

### **89 Power to impose secondary liability on controllers of authorised landfill sites**

- (1) Regulations may make provision for and in connection with requiring a controller of an authorised landfill site, or of part of such a site, to pay the tax chargeable on taxable disposals made at the site or part in question.
- (2) A controller of an authorised landfill site or of part of such a site—
  - (a) is a person, other than the operator of the site, who determines, or is entitled to determine, what disposals of material may be made throughout the site or part in question, but
  - (b) does not include a person who determines, or is entitled to determine, what disposals are made only because the person is an employee or agent of another person.
- (3) Regulations under this section may (among other things) make provision—
  - (a) requiring WRA to be notified if a person becomes, or ceases to be, a controller of an authorised landfill site or of part of such a site;
  - (b) about the circumstances in which a controller is required to pay tax;
  - (c) for determining the amount of tax a controller is required to pay;
  - (d) about the relationship between a requirement for a controller to pay tax and any liability of the operator of the authorised landfill site to pay tax;
  - (e) about the procedure for requiring a controller to pay tax;
  - (f) about when the tax must be paid;
  - (g) about duties to keep and preserve records;
  - (h) for penalties in respect of failures to comply with the regulations;
  - (i) for reviews and appeals.
- (4) The regulations may amend or apply (with or without modifications) any enactment relating to the tax.

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VALID FROM 25/01/2018

## 90 Minor and consequential amendments to the Tax Collection and Management (Wales) Act 2016

Schedule 4 makes minor and consequential amendments to TCMA.

### Commencement Information

- II** S. 90 in force at 25.1.2018 for specified purposes by [S.I. 2018/35](#), [art. 2\(x\)](#)

## 91 Welsh Ministers' exercise of powers and duties under this Act

- (1) In exercising their powers and duties under this Act, the Welsh Ministers—
- (a) must have regard to the objective of reducing landfill disposals in Wales;
  - (b) may have regard to such other matters as they think appropriate.
- (2) Subsection (1) does not apply to the exercise of powers and duties under section 92.

VALID FROM 08/11/2017

### *Landfill Disposals Tax Communities Scheme*

## 92 Landfill Disposals Tax Communities Scheme

- (1) The Welsh Ministers must prepare and publish a Landfill Disposals Tax Communities Scheme on or before the day on which this Act comes fully into force.
- (2) The Scheme must make provision for grants to be given by the Welsh Ministers to persons engaged in activities which the Welsh Ministers consider will promote or improve the social or environmental well-being of areas in Wales affected by—
- (a) the making of landfill disposals, or
  - (b) activities preparatory to the making of landfill disposals.
- (3) The Scheme may provide for the grants—
- (a) to be allocated by reference to criteria specified in the Scheme;
  - (b) to be subject to conditions specified in the Scheme or by the Welsh Ministers.
- (4) The Welsh Ministers—
- (a) must review the Scheme—
    - (i) at least once in the period of 4 years beginning with the day on which it is first published, and
    - (ii) subsequently, at least once in each period of 4 years beginning with the day on which the previous review is concluded, and
  - (b) must consult such persons as they think appropriate when doing so.

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- (5) The Welsh Ministers may revise or revoke the Scheme following a review; but the Scheme may not be revoked within the period of 4 years beginning with the day on which it is first published.
- (6) If the Scheme is revised, the Welsh Ministers must publish the revised Scheme.
- (7) The Welsh Ministers must lay the Scheme, and any revised Scheme, before the National Assembly for Wales.



**Status:**

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**Changes to legislation:**

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