



Finance Act 1996

1996 CHAPTER 8

PART III

LANDFILL TAX

Exemptions

43 Material removed from water.

- (1) A disposal [^{F1}made at a landfill site] is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—
 - (a) has been removed (by dredging or otherwise) from water falling within subsection (2) below, and
 - (b) formed part of or projected from the bed of the water concerned before its removal.
- (2) Water falls within this subsection if it is—
 - (a) a river, canal or watercourse (whether natural or artificial), or
 - (b) a dock or harbour (whether natural or artificial).
- (3) A disposal [^{F2}made at a landfill site] is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—
 - (a) has been removed (by dredging or otherwise) from water falling within the approaches to a harbour (whether natural or artificial),
 - (b) has been removed in the interests of navigation, and
 - (c) formed part of or projected from the bed of the water concerned before its removal.
- (4) A disposal [^{F3}made at a landfill site] is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which—

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- (a) consists of naturally occurring mineral material, and
- (b) has been removed (by dredging or otherwise) from the sea in the course of commercial operations carried out to obtain substances such as sand or gravel from the seabed.

[^{F4}(5) A disposal [^{F5}made at a landfill site] is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which comprises material falling within subsection (1) or (3) and other material which has been added to that material for the purpose of securing that it is not liquid waste.]

Textual Amendments

F1 Words in s. 43(1) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 5**

F2 Words in s. 43(3) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 5**

F3 Words in s. 43(4) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 5**

F4 S. 43(5) inserted (30.10.2007) by [The Landfill Tax \(Material Removed from Water\) Order 2007 \(S.I. 2007/2909\)](#), arts. 1, 2

F5 Words in s. 43(5) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 5**

^{F6}43A Contaminated land.

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Textual Amendments

F6 S. 43A omitted (1.4.2012) by virtue of [The Landfill Tax \(Material from Contaminated Land\) \(Phasing out of Exemption\) Order 2008 \(S.I. 2008/2669\)](#), arts. 1(2)(c), **4(a)**

43B ^{F7} Contaminated land: certificates.

- ^{F8}(1)
- ^{F8}(2)
- ^{F8}(3)
- ^{F9}(4)
- ^{F9}(5)
- ^{F9}(6)
- ^{F9}(7)
- ^{F9}(8)
- ^{F9}(9)
- ^{F9}(10)

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^{F9}(11)

^{F9}(12)

Textual Amendments

- F7** Ss. 43A, 43B, inserted (1.8.1996) by S.I. 1996/1529, **art. 3**
- F8** S. 43B(1)-(3) omitted (1.12.2008) by virtue of [The Landfill Tax \(Material from Contaminated Land\) \(Phasing out of Exemption\) Order 2008](#) (S.I. 2008/2669), arts. 1(2)(b), **3(1)(a)** (with art. 3(2))
- F9** Ss. 43B(4)-(12) omitted (1.4.2012) by virtue of [The Landfill Tax \(Material from Contaminated Land\) \(Phasing out of Exemption\) Order 2008](#) (S.I. 2008/2669), arts. 1(2)(c), **4(b)**

^{F10}**43C Site restoration.**

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Textual Amendments

- F10** S. 43C omitted (1.9.2009) by virtue of [Finance Act 2009](#) (c. 10), **Sch. 60 paras. 10, 13(1)**

44 Mining and quarrying.

- (1) A disposal [^{F11}made at a landfill site] is not a taxable disposal for the purposes of this Part if it is shown to the satisfaction of the Commissioners that the disposal is of material all of which fulfils each of the conditions set out in subsections (2) to (4) below.
- (2) The material must result from commercial mining operations (whether the mining is deep or open-cast) or from commercial quarrying operations.
- (3) The material must be naturally occurring material extracted from the earth in the course of the operations.
- (4) The material must not have been subjected to, or result from, a non-qualifying process carried out at any stage between the extraction and the disposal.
- (5) A non-qualifying process is—
 - (a) a process separate from the mining or quarrying operations, or
 - (b) a process forming part of those operations and permanently altering the material's chemical composition.

Textual Amendments

- F11** Words in s. 44(1) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018](#) (c. 3), **Sch. 12 para. 6**

[^{F12}**44A Quarries.**

- (1) A disposal is not a taxable disposal for the purposes of this Part if it is—

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- (a) of material all of which is treated for the purposes of section 42 above as qualifying material,
 - (b) made at a qualifying landfill site, and
 - (c) made, or treated as made, on or after 1st October 1999.
- (2) A landfill site is a qualifying landfill site for the purposes of this section if at the time of the disposal—
- (a) the landfill site is or was a quarry,
 - (b) subject to subsection (3) below, it is a requirement of planning consent in respect of the land in which the quarry or former quarry is situated that it be wholly or partially refilled, and
 - (c) subject to subsection (4) below, the licence [^{F13}, permit] or, as the case may require, resolution authorising disposals on or in the land comprising the site permits only the disposal of material which comprises qualifying material.
- (3) Where a quarry—
- (a) was in existence before 1st October 1999, and
 - (b) quarrying operations ceased before that date,
- the requirement referred to in subsection (2)(b) must have been imposed on or before that date.
- (4) Where a licence [^{F14} or permit] authorising disposals on or in the land does not (apart from the application of this subsection) meet the requirements of subsection (2)(c) above and an application has been made to vary the licence [^{F14} or permit] in order to meet them, it shall be deemed to meet them for the period before—
- (a) the application is disposed of, or
 - (b) the second anniversary of the making of the application if it occurs before the application is disposed of.
- (5) For the purposes of subsection (4) an application is disposed of if—
- (a) it is granted,
 - (b) it is withdrawn,
 - (c) it is refused and there is no right of appeal against the refusal,
 - (d) a time limit for appeal against refusal expires without an appeal having been commenced, or
 - (e) an appeal against refusal is dismissed or withdrawn and there is no further right of appeal.]

Textual Amendments

F12 S. 44A inserted (1.10.1999) by [S.I. 1999/2075](#), [art. 2\(b\)](#)

F13 Word in s. 44A(2)(c) inserted (6.4.2005) by [The Landfill Tax \(Site Restoration, Quarries and Pet Cemeteries\) Order 2005 \(S.I. 2005/725\)](#), arts. 1, [4\(a\)](#)

F14 Words in s. 44A(4) inserted (6.4.2005) by [The Landfill Tax \(Site Restoration, Quarries and Pet Cemeteries\) Order 2005 \(S.I. 2005/725\)](#), arts. 1, [4\(b\)](#)

45 Pet cemeteries.

- (1) A disposal [^{F15} made at a landfill site] is not a taxable disposal for the purposes of this Part if—

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- (a) the disposal is of material consisting entirely of the remains of dead domestic pets, and
 - (b) the landfill site at which the disposal is made fulfils the test set out in subsection (2) below.
- (2) The test is that during the relevant period—
- (a) no [^{F16}disposal of material] was made at the site, or
 - (b) the only [^{F17}disposals of material] made at the site were of material consisting entirely of the remains of dead domestic pets.
- (3) For the purposes of subsection (2) above the relevant period—
- (a) begins with 1st October 1996 or (if later) with the coming into force in relation to the site of the licence [^{F18}, resolution or permit] mentioned in section 66 below, and
 - (b) ends immediately before the disposal mentioned in subsection (1) above.

Textual Amendments

- F15** Words in s. 45(1) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 7(2)**
- F16** Words in s. 45(2)(a) substituted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 7(3)(a)**
- F17** Words in s. 45(2)(b) substituted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), **Sch. 12 para. 7(3)(b)**
- F18** Words in s. 45(3)(a) substituted (6.4.2005) by [The Landfill Tax \(Site Restoration, Quarries and Pet Cemeteries\) Order 2005 \(S.I. 2005/725\)](#), arts. 1, 5

46 Power to vary.

- (1) Provision may be made by order to produce the result that—
- (a) a disposal which would otherwise be a taxable disposal (by virtue of this Part as it applies for the time being) is not a taxable disposal;
 - (b) a disposal which would otherwise not be a taxable disposal (by virtue of this Part as it applies for the time being) is a taxable disposal.
- (2) Without prejudice to the generality of subsection (1) above, an order under this section may—
- [^{F19}(za) confer exemption by reference to guidance (as it has effect from time to time) issued by—
 - (i) a body established by or under any enactment, or
 - (ii) a government department or an agency of a government department, to the effect that particular kinds of disposal do not require a permit or licence mentioned in section 40(4);]
 - (a) confer exemption by reference to certificates issued by the Commissioners and to conditions set out in certificates;
 - (b) allow the Commissioners to direct requirements to be met before certificates can be issued;
 - [^{F20}(c) provide for reviews and appeals relating to decisions about certificates.]
- (3) Provision may be made under this section in such way as the Treasury think fit (whether by amending this Part or otherwise).

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Textual Amendments

- F19** S. 46(2)(za) inserted (with effect in accordance with s. 42(2), Sch. 12 para. 29(1) of the amending Act) by Finance Act 2018 (c. 3), **Sch. 12 para. 8**
- F20** S. 46(2)(c) substituted (1.4.2009) by The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 (S.I. 2009/56), art. 1(2), **Sch. 1 para. 233**

Status:

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