



# Finance Act 1996

## 1996 CHAPTER 8

### PART III

#### LANDFILL TAX

##### *Interpretation*

#### **64 Disposal of material as waste.**

- (1) A disposal of material is a disposal of it as waste if the person making the disposal does so with the intention of discarding the material.
- (2) The fact that the person making the disposal or any other person could benefit from or make use of the material is irrelevant.
- (3) Where a person makes a disposal on behalf of another person, for the purposes of subsections (1) and (2) above the person on whose behalf the disposal is made shall be treated as making the disposal.
- (4) The reference in subsection (3) above to a disposal on behalf of another person includes references to a disposal—
  - (a) at the request of another person;
  - (b) in pursuance of a contract with another person.

#### **65 Disposal by way of landfill.**

- (1) There is a disposal of material by way of landfill if—
  - (a) it is deposited on the surface of land or on a structure set into the surface, or
  - (b) it is deposited under the surface of land.
- (2) Subsection (1) above applies whether or not the material is placed in a container before it is deposited.
- (3) Subsection (1)(b) above applies whether the material—

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- (a) is covered with earth after it is deposited, or
  - (b) is deposited in a cavity (such as a cavern or mine).
- (4) If material is deposited on the surface of land (or on a structure set into the surface) with a view to it being covered with earth the disposal must be treated as made when the material is deposited and not when it is covered.
- (5) An order may provide that the meaning of the disposal of material by way of landfill (as it applies for the time being) shall be varied.
- (6) An order under subsection (5) above may make provision in such way as the Treasury think fit, whether by amending any of subsections (1) to (4) above or otherwise.
- (7) In this section “land” includes land covered by water where the land is above the low water mark of ordinary spring tides.
- (8) In this section “earth” includes similar matter (such as sand or rocks).

## 66 Landfill sites.

Land is a landfill site at a given time if at that time—

- (a) a licence which is a site licence for the purposes of Part II of the <sup>M1</sup>Environmental Protection Act 1990 (waste on land) is in force in relation to the land and authorises disposals in or on the land,
- (b) a resolution under section 54 of that Act (land occupied by waste disposal authorities in Scotland) is in force in relation to the land and authorises deposits or disposals in or on the land,
- (c) a disposal licence issued under Part II of the <sup>M2</sup>Pollution Control and Local Government (Northern Ireland) Order 1978 (waste on land) is in force in relation to the land and authorises deposits on the land,
- (d) a resolution passed under Article 13 of that Order (land occupied by district councils in Northern Ireland) is in force in relation to the land and relates to deposits on the land, or
- (e) a licence under any provision for the time being having effect in Northern Ireland and corresponding to section 35 of the Environmental Protection Act 1990 (waste management licences) is in force in relation to the land and authorises disposals in or on the land.

### Marginal Citations

**M1** 1990 c. 43.

**M2** S.I. 1978/1049 (N.I.19).

## 67 Operators of landfill sites.

The operator of a landfill site at a given time is—

- (a) the person who is at the time concerned the holder of the licence, where section 66(a) above applies;
- (b) the waste disposal authority which at the time concerned occupies the landfill site, where section 66(b) above applies;
- (c) the person who is at the time concerned the holder of the licence, where section 66(c) above applies;

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- (d) the district council which passed the resolution, where section 66(d) above applies;
- (e) the person who is at the time concerned the holder of the licence, where section 66(e) above applies.

## **68 Weight of material disposed of.**

- (1) The weight of the material disposed of on a taxable disposal shall be determined in accordance with regulations.
- (2) The regulations may—
  - (a) prescribe rules for determining the weight;
  - (b) authorise rules for determining the weight to be specified by the Commissioners in a prescribed manner;
  - (c) authorise rules for determining the weight to be agreed by the person liable to pay the tax and an authorised person.
- (3) The regulations may in particular prescribe, or authorise the specification or agreement of, rules about—
  - (a) the method by which the weight is to be determined;
  - (b) the time by reference to which the weight is to be determined;
  - (c) the discounting of constituents (such as water).
- (4) The regulations may include provision that a specification authorised under subsection (2)(b) above may provide—
  - (a) that it is to have effect only in relation to disposals of such descriptions as may be set out in the specification;
  - (b) that it is not to have effect in relation to particular disposals unless the Commissioners are satisfied that such conditions as may be set out in the specification are met in relation to the disposals;and the conditions may be framed by reference to such factors as the Commissioners think fit (such as the consent of an authorised person to the specification having effect in relation to disposals).
- (5) The regulations may include provision that—
  - (a) where rules are agreed as mentioned in subsection (2)(c) above, and
  - (b) the Commissioners believe that they should no longer be applied because they do not give an accurate indication of the weight or they are not being fully observed or for some other reason,the Commissioners may direct that the agreed rules shall no longer have effect.
- (6) The regulations shall be so framed that where in relation to a given disposal—
  - (a) no specification of the Commissioners has effect, and
  - (b) no agreed rules have effect,the weight shall be determined in accordance with rules prescribed in the regulations.

## **69 Taxable activities.**

- (1) A person carries out a taxable activity if—
  - (a) he makes a taxable disposal in respect of which he is liable to pay tax, or

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(b) he permits another person to make a taxable disposal in respect of which he (the first-mentioned person) is liable to pay tax.

(2) Where—

(a) a taxable disposal is made, and

(b) it is made without the knowledge of the person who is liable to pay tax in respect of it,

that person shall for the purposes of this section be taken to permit the disposal.

## **70 Interpretation: other provisions.**

(1) Unless the context otherwise requires—

“accounting period” shall be construed in accordance with section 49 above;

“appeal tribunal” means a VAT and duties tribunal;

“authorised person” means any person acting under the authority of the Commissioners;

“the Commissioners” means the Commissioners of Customs and Excise;

“conduct” includes any act, omission or statement;

“material” means material of all kinds, including objects, substances and products of all kinds;

“prescribed” means prescribed by an order or regulations under this Part;

“registrable person” has the meaning given by section 47(10) above;

“tax” means landfill tax;

“taxable disposal” has the meaning given by section 40 above.

(2) A landfill disposal is a disposal—

(a) of material as waste, and

(b) made by way of landfill.

(3) A reference to this Part includes a reference to any order or regulations made under it and a reference to a provision of this Part includes a reference to any order or regulations made under the provision, unless otherwise required by the context or any order or regulations.

(4) This section and sections 64 to 69 above apply for the purposes of this Part.

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