



Finance Act 1996

1996 CHAPTER 8

PART III

LANDFILL TAX

The basic provisions

39 Landfill tax.

- (1) A tax, to be known as landfill tax, shall be charged in accordance with this Part.
- (2) The tax shall be under the care and management of the Commissioners of Customs and Excise.

40 Charge to tax.

- (1) Tax shall be charged on a taxable disposal [^{F1}made in England ^{F2}... or Northern Ireland]

[^{F3}(2) A taxable disposal takes place where material is disposed of and either—

- (a) the disposal is made at a landfill site (see subsection (4)), or
- (b) the disposal requires a permit or licence mentioned in subsection (4) but is not made at a landfill site.]

- (3) For this purpose a disposal is made at a landfill site if the land on or under which it is made constitutes or falls within land which is a landfill site at the time of the disposal.

[^{F4}(4) Land is a landfill site at a given time if at that time—

- (a) a permit under regulations made under—
 - (i) section 2 of the Pollution Prevention and Control Act 1999, or
 - (ii) Article 4 of the Environment (Northern Ireland) Order 2002 (S.I. 2002/3153 (N.I. 7)),

is in force in relation to the land and authorises deposits or disposals in or on the land,

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- (b) a waste management licence issued under Part 2 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I. 19)) (waste on land) is in force in relation to the land and authorises deposits in or on the land, or
- (c) 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.]

Textual Amendments

- F1** Words in s. 40(1) inserted (with effect in accordance with s. 31(4) of the amending Act) by Scotland Act 2012 (c. 11), **ss. 31(2), 44(2)(b)(3)(c)** (with saving in The Devolution of Landfill Tax (Consequential, Transitional and Saving Provisions) Order 2015 (S.I. 2015/599), **art. 6**); S.I. 2015/638, art. 2
- F2** Words in s. 40(1) omitted (17.2.2015) by virtue of Wales Act 2014 (c. 29), **ss. 19(2), 29(2)(b)(3)** (with s. 19(3))
- F3** S. 40(2) 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. 2(2)**
- F4** S. 40(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. 2(3)**

[^{F5}40A Disposals of material

- (1) For the purposes of this Part, there is a disposal of material if—
 - (a) material is disposed of on the surface of land or on a structure set into the surface, or
 - (b) material is disposed of under the surface of land.
- (2) For the purposes of subsection (1)(a) and (b) it does not matter whether the material is placed in a container before it is disposed of.
- (3) For the purposes of subsection (1)(b) it does not matter whether the material—
 - (a) is covered after it is disposed of, or
 - (b) is disposed of in a cavity (such as a cavern or mine).
- (4) If material is disposed of on the surface of land or on a structure set into the surface with a view to the material being covered, the disposal is to be treated as made when the material is disposed of and not when it is covered.
- (5) An order may for the purposes of this Part provide for—
 - (a) material to be treated as disposed of in circumstances where it would not otherwise be so treated;
 - (b) material to be treated as not disposed of in circumstances where it would otherwise be so treated.
- (6) An order under subsection (5) may, among other things, make provision by reference to—
 - (a) descriptions of material;
 - (b) the quantities disposed of;
 - (c) the nature of the site at which material is disposed of;

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- (d) the location of material in a site (for example, whether it is in a discrete unit within the site).
- (7) An order may for the purposes of this Part provide for a prohibited disposal to be treated as a disposal falling within paragraph (b) of section 40(2).
- “Prohibited disposal” here means a disposal of material the disposal of which at a landfill site is prohibited by or by virtue of a prescribed enactment.
- (8) An order under this section may make provision subject to exceptions, conditions or other qualifications.]

Textual Amendments

- F5** S. 40A 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. 3**

41 Liability to pay tax.

- (1) The person liable to pay tax charged on a taxable disposal [^{F6}made at a landfill site] is the landfill site operator.
- (2) The reference here to the landfill site operator is to the person who is at the time of the disposal the operator of the landfill site which constitutes or contains the land on or under which the disposal is made.
- [^{F7}(3) A person is liable to pay tax charged on a taxable disposal not made at a landfill site if the person—
- (a) makes the disposal, or
 - (b) knowingly causes or knowingly permits the disposal to be made.
- (4) Every such person is jointly and severally liable to pay the tax charged.
- (5) In the case of a taxable disposal not made at a landfill site, a person within subsection (6) or (7) is taken for the purposes of this Part to be a person who knowingly causes or knowingly permits the disposal to be made, unless it is shown to the satisfaction of the Commissioners that the person did not do so.
- (6) A person is within this subsection if, before the time of the disposal of the material in question, the person—
- (a) took any action with a view to the disposal of the material,
 - (b) was party to a contract for the sale of the material, or
 - (c) facilitated the transport or storage of the material.
- (7) A person is within this subsection if at the time of the disposal the person—
- (a) is the owner, or a lessee or occupier, of the land at which the disposal is made,
 - (b) controls, or is able to control, a vehicle or trailer from which the disposal is made, or
 - (c) is an officer of a body corporate or unincorporated association that is within subsection (3)(a) or (3)(b).
- (8) In subsection (7)(c) “officer”—

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- (a) in relation to a body corporate, means a director, manager, secretary, chief executive or member of the committee of management, or a person purporting to act in such a capacity;
- (b) in relation to an unincorporated association, means an officer of the association or a member of its governing body, or a person purporting to act in such a capacity.]

Textual Amendments

- F6** Words in s. 41(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. 4(2)
- F7** S. 41(3)-(8) 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. 4(3)

42 Amount of tax.

- (1) The amount of tax charged on a taxable disposal shall be found by taking—
 - (a) [^{F8}£94.15][^{F9}for each whole tonne disposed of and a proportionately reduced sum for any additional part of a tonne,] or
 - (b) a proportionately reduced sum if less than a tonne is disposed of.
 - (2) [^{F10}Where—
 - (a) the] material disposed of consists entirely of qualifying material [^{F11}or qualifying][^{F12}finest, and
 - (b) the disposal is made at a landfill site,
 this section] applies as if the [^{F13}reference to [^{F14}£94.15] were to [^{F15}£3].]
 - (3) Qualifying material is material for the time being listed for the purposes of this section in an order.
- [^{F16}(3A) Qualifying fines are a mixture of—
- (a) fines that consist of such qualifying material as is prescribed by order, and
 - (b) fines that consist of material that is not qualifying material,
- that satisfies all the requirements prescribed in an order.
- (3B) An order under subsection (3A) relating to the mixture of fines may require, in particular—
- (a) that fines that consist of material that is not qualifying material do not exceed a prescribed proportion;
 - (b) that the mixture of fines does not include prescribed materials or prescribed descriptions of materials;
 - (c) that the mixture of fines is such that, if subjected to a prescribed test, it would give a prescribed result;
 - (d) that the mixture of fines originates, or does not originate, in a prescribed way.]

[^{F17}(4) The Treasury must—

 - (a) set criteria to be considered in determining from time to time what material is to be listed [^{F18}or what fines are to be qualifying fines],
 - (b) keep those criteria under review, and
 - (c) revise them whenever they consider they should be revised.

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- (5) The Commissioners must publish the criteria (and any revised criteria) set by the Treasury.
- (6) In determining from time to time what material is to be listed, [^{F19}or what fines are to be qualifying fines,] the Treasury must have regard to—
- (a) the criteria (or revised criteria) published under subsection (5), and
 - (b) any other factors they consider relevant.]

Textual Amendments

- F8** Sum in s. 42(1)(a) substituted (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 94\(2\)](#)
- F9** Words in s. 42(1)(a) substituted (with effect in accordance with s. 64(4) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 64\(2\)](#)
- F10** Words in s. 42(2) 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. 10\(a\)](#)
- F11** Words in s. 42(2) inserted (with effect in accordance with Sch. 15 para. 8 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 15 para. 2\(2\)](#)
- F12** Words in s. 42(2) 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. 10\(b\)](#)
- F13** Words in s. 42(2) substituted (with effect in accordance with s. 64(4) of the amending Act) by [Finance Act 2015 \(c. 11\), s. 64\(3\)](#)
- F14** Sum in s. 42(2) substituted (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 94\(3\)\(a\)](#)
- F15** Sum in s. 42(2) substituted (with effect in accordance with s. 94(4) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 94\(3\)\(b\)](#)
- F16** S. 42(3A)(3B) inserted (with effect in accordance with Sch. 15 para. 8 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 15 para. 2\(3\)](#)
- F17** S. 42(4)-(6) substituted for s. 42(4) (with effect in accordance with s. 24(2) of the amending Act) by [Finance \(No. 3\) Act 2010 \(c. 33\), s. 24\(1\)](#)
- F18** Words in s. 42(4)(a) inserted (with effect in accordance with Sch. 15 para. 8 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 15 para. 2\(4\)](#)
- F19** Words in s. 42(6) inserted (with effect in accordance with Sch. 15 para. 8 of the amending Act) by [Finance Act 2015 \(c. 11\), Sch. 15 para. 2\(5\)](#)

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