

Mark Drakeford AM/AC  
Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol  
Cabinet Secretary for Finance and Local Government



Llywodraeth Cymru  
Welsh Government

Simon Thomas AM  
Chair  
Finance Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

15 February 2017

Annwyl Simon

During my appearance at the Finance Committee on 2 February to give evidence on the Landfill Disposals Tax (Wales) Bill, I committed to provide further information in relation to a number of issues discussed during the Committee session and I deal with these and some other areas that were of interest to the Committee below.

### **A summary of the main topics covered by the Bill**

As requested, a summary noting the main topics covered by the Bill and the key points of difference with the legislation in the UK, including a note of where things have been moved onto the face of the Bill, is attached at Annex 1.

### **Office for Budget Responsibility (OBR) forecasts**

The [OBR currently produces forecasts](#) for devolved tax revenues twice a year alongside the spring and autumn UK Government fiscal events). They will continue to forecast devolved tax revenues and will also forecast the adjustment for the block grant in line with the methodology outlined in the fiscal framework for the Welsh Government.

For the 2018-19 draft budget the Welsh Government will produce forecasts for revenues from devolved taxes which will be assured independently of government. In line with the fiscal framework agreement, I am currently considering the options for the independent production of forecasts for devolved tax revenues.

Forecasts for devolved tax revenues will form an important new element in the budget setting and scrutiny process. I will update the National Assembly for Wales and Finance

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Mark.Drakeford@llyw.cymru](mailto:Gohebiaeth.Mark.Drakeford@llyw.cymru)  
[Correspondence.Mark.Drakeford@gov.wales](mailto:Correspondence.Mark.Drakeford@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Committee on the forecasts for devolved taxes as I set out the funding available for Welsh public services in the Welsh Government's budget.

### **Bad Debt Credit**

The regulations to introduce a bad debt credit will be made under section 53 of the Bill using the affirmative procedure and I will aim to introduce them in autumn 2017 subject to the Bill receiving Royal Assent.

I consider that it is appropriate for the Welsh Government to be able to work through the detail of how the credit system will work once the rest of the LDT system is in place.

In developing the bad debt credit regulations my officials will be looking closely at the approach taken in Scotland and the definition of insolvency they have adopted as well as other legislative definitions of insolvency.

### **Controllers**

As I confirmed during the Committee session, the following key points were considered in deciding to allow for provisions relating to controllers of sites to be made through regulations.

Firstly, we carefully considered the existing UK provisions on controllers and tested them with stakeholders when preparing the Bill. There do not appear to be any controllers operating in Wales at this time or evidence that this is likely to be an issue.

Secondly, the Scottish Government has taken a regulation making power to make provision for controllers to be liable to tax. This provides the flexibility to adjust the legislation if data from LDT suggests that 'controllers' has become a live issue in Wales. We have thus taken a proportionate approach, consistent with the Scottish Government.

### **Adjustment of Contracts**

The effect of section 87 is to allow for the adjustment of a contract in order to take account of a change to the tax legislation that affects the amount of tax chargeable (e.g. a change to the rates). There will not be an adjustment if the contract expressly provides that this should not be the case.

A question was asked during the Committee session about whether a change to the list of qualifying materials (that will be set out in regulations under section 15 of the Bill) could be a circumstance that would trigger the application of section 87. I can confirm that this could be the case. For example, if a contract was in place between a landfill site operator and a waste producer in relation to material that was listed as qualifying material and eligible for the lower rate of tax and legislation was then passed that removed that particular material from the list of qualifying material, tax would be chargeable on that material at the standard rate. It would therefore be the case that the amount of tax chargeable on a disposal of that material had increased as a result of the enactment.

Provision for the adjustment of contracts has been made because such a provision ensures that landfill site operators and contractors are not advantaged or disadvantaged as a result of changes in tax not being reflected in historical contracts in circumstances where they have not fully considered the consequences of any future changes in tax legislation.

The approach we have adopted in the Bill also provides consistency with existing provision in UK and Scottish legislation. Landfill site operators are therefore familiar with such a provision.

### **Relief for material removed from the bed of river, sea or other water**

The Committee asked whether the relief at section 26 would apply in relation to the removal of material for the purpose of reducing flood risk as well as in the interests of navigation. I can confirm that flooding risks can be alleviated as a result of dredging material from waterways for navigation purposes.

As I have previously explained, the reliefs and exemptions adopted in the Bill are broadly consistent with those currently available (as exemptions) in the UK. This consistency of approach means that operators will be familiar with the position. It also fits with the concerns that have been expressed to the effect that substantive differences between the two tax regimes could lead to the cross border movement of waste, which would be unwelcome. Once landfill tax is devolved, the WRA will have data which will be able to support policy considerations of potential adjustments to the legislation, both from a tax perspective and from the perspective of the wider waste and environment agendas. The Bill provides for this flexibility by including a regulation making power to add, modify and remove reliefs and exemptions.

### **Pet cemetery exemption**

I would like to thank the Committee for drawing my attention to the term “dead domestic pets” at section 11 of the Bill and the difference in the English and Welsh language versions. I have asked officials to consider this further ahead of stage 2.

### **Determining weight of material before the disposal is made**

I agree to consider the wording of section 20(1) in the context of the apparent practice of weighing a vehicle on and off the weighbridge as they enter and exit a landfill. I have, asked my officials to engage with stakeholders and to give further consideration to this provision ahead of stage 2.

### **Water discount penalty**

I am grateful to the Committee for drawing my attention to the potential operation of the water discount penalty at section 61 of the Bill. It is not our intention to apply a penalty where an honest customer declares to the landfill site operator that there is less water content in the waste than stated in their water discount agreement and efforts are made to adjust the tax return accordingly so that the correct amount of tax is paid. Whilst we consider it would be rare for this scenario to arise, it is possible. With this in mind, I have asked my officials to give further consideration to this provision ahead of stage 2.

### **The application of alternative weighing methods**

The Committee was interested in the possibility of limiting the ability to use a weighing method other than a weighbridge to cases where the weighbridge is broken down for a short period and to sites of a specified size and/or only receiving a specified number of disposals per week.

The Bill provides that an operator must weigh the material on a weighbridge. However, provision is made for the WRA to approve the use of an alternative weighing method upon application.

This approach takes into account the practical operation of landfill sites recognising that weighbridges may break down from time to time. There are also two small landfill site businesses in Wales who do not have a weighbridge and without the ability to agree an alternative method; these sites may experience additional financial burdens.

A decision on alternative weighing methods is for the WRA; however, I would expect them to consider the existing alternative weighing methods available, these include calculations based on weight and volume conversions, which are well established and NRW believe are accurate in establishing the weight of materials. I attach a link to an example of the [conversion factors](#) and method of application for a site without a weighbridge or where the regulator would want to make an estimate of the weight of material.

Operators will need to apply to WRA to use an alternative weighing method. A number of safeguards have been included within the provisions to guard against abuse. For example, the agreement may be subject to conditions including time limits. It is also helpful to note that WRA is able to vary or revoke an alternative weighing agreement. I would expect the WRA to issue guidance regarding the sorts of circumstances in which it may be receptive to the use of an alternative weighing method; this might, for example, include consideration of the number and size of disposals being made at a landfill site as well as the reasons why a weighbridge cannot be used. Operators will be expected to comply with the weighing arrangements that are in place - whether this is a duty to use a weighbridge or an alternative method agreed with WRA and a weighing penalty will apply if they do not do so.

Landfill site operators will be required to keep records in relation to the weighing of material received at their site. If WRA are concerned about non-compliance with a weighing agreement I would expect them to discuss this with the operator.

The WRA may also use its powers under the Tax Collection and Management (Wales) Act 2016 to open an enquiry and make an assessment of tax. As part of an enquiry the WRA may wish to undertake an inspection of the site so that it may look at the weighing documentation (this may include a comparison with the NRW Waste Return which is a separate document recording for environmental purposes the types and quantities of material entering and exiting a landfill site) and also observe the weighing process.

### **Communities Scheme**

The Committee asked whether the application of funding under the proposed Communities Scheme would be available to restore 'orphaned' landfill sites.

Provisions are already in place for the environmental regulator to assess the management and aftercare of orphaned landfill sites. Before a landfill site permit is granted and the commencement of disposal operations, it is a requirement of the Landfill Directive that financial provision is made in the event of the landfill site operator becoming unable to meet the liabilities arising from the permit (such as gas and leachate management) including the aftercare of the landfill site. Financial provision for landfill sites must be sufficient, secure and available. This may be achieved for example, through renewable bonds, escrow accounts or cash deposits. NRW has published their [guidance for landfill site operators](#) on financial provision.

My colleague the Cabinet Secretary for Environment and Rural Affairs will be consulting later this year on changes to further strengthen and simplify the operator competence and financial requirements which operators should meet when applying for or holding an environmental permit.

### **Extraction of valuable waste from landfill – future proofing**

As I have mentioned to the Committee on a number of occasions, I have taken a balanced approach in seeking to place as much detail as possible on the face of the Bill whilst also ensuring that opportunities are taken to future proof the Bill. This is particularly relevant where flexibility to respond to new issues and technological

developments is required. It is my view that the Bill provides this through the regulation making powers, for example to add, modify and remove reliefs or credits. The affirmative procedure would apply to these regulations.

As new issues arise and technology advances then the case can be made for using the flexibility within the Bill to support wider waste policies and objectives. The example raised at Committee on the potential extraction of material from landfill sites is one such area where we may see future developments, particularly given its potential profitability. This particular issue would be subject to planning and permit controls given the complexity of removing waste and the potential environmental and public health risks associated with this. Were a removal credit or relief for the extraction of historical deposits of waste proposed – where the tax was payable to HMRC that would be a matter for HMRC to consider. It should be noted that LDT will only come into effect from April 2018 (subject to the Assembly's approval).

### **HMRC Switch off costs**

Transition costs will be negotiated by and paid by the Welsh Treasury – they have not been included in the cost estimates for setting up the Welsh Revenue Authority (WRA). We understand that the equivalent charge to the Scottish Government was £1m for both taxes and this is reflected in the Regulatory Impact Assessment.

Likewise, any reimbursement from the UK Government for the costs of not collecting stamp duty land tax SDLT and landfill tax in Wales from April 2018 will be paid to the Welsh Government, not the WRA. The reimbursement to the Scottish Government is understood to be £275k per annum.

The WRA Implementation Programme is working with colleagues in HMRC to ensure a smooth transition.

As mentioned in my letter to the Committee on 31 January, this is a complex tax with areas of dependencies. If it would be of benefit, officials could provide the Committee with a further technical briefing to provide further detail on areas of the Bill which are of particular interest.

Should you consider any further information is required, please let me know.

**Yours sincerely**



### **Mark Drakeford AM/AC**

Ysgrifennydd y Cabinet dros Gyllid a Llywodraeth Leol  
Cabinet Secretary for Finance and Local Government



## **Summary of key areas of LDT Bill (“the Bill) as compared to Finance Act (“FA 1996”) model**

### **Introduction**

The existing landfill tax legislation has developed over the past 20 years across primary legislation and a schedule, secondary legislation, directions, notices, guidance and case law. The Landfill Disposals Tax (Wales) Bill seeks to bring as much detail as possible onto the face of the Bill so that it is accessible, transparent and workable.

The Bill retains the basic framework of the existing legislation but seeks to improve, clarify and tighten it where possible ensuring that it is up to date, relevant to Wales and better reflects established practices.

This paper seeks to provide a summary of the key areas of the Bill as compared to the existing landfill tax and should be read alongside the Explanatory Notes accompanying the Bill.

### **Part 2, Chapters 1 and 2 (ss. 2 -8): Taxable Disposals**

#### **Summary**

- These provisions provide for there to be a landfill disposals tax (LDT) and sets out the circumstances in which a disposal of material will be chargeable to LDT.

- Section 3 sets out four conditions that need to be met for there to be a taxable disposal and sections 4-7 supplement those conditions.

- Section 8 lists activities that will be treated as taxable disposals whether or not the four conditions at section 3 are met.

-The Bill takes a number of specific powers to make changes to the Bill (sections 4(3), 6(4) and 8(5)), all of which are subject to the affirmative procedure.

#### **Key points of similarity and *difference* from FA 1996**

- The conditions that need to be met for there to be taxable disposal as set out at section 3 of the Bill are broadly consistent with those set out at section 40 FA 1996.

- *However, section 40 FA 1996 does not extend landfill tax to disposals made outside of an authorised landfill site, whereas section 3 of the Bill does. The Landfill Tax (Scotland) Act 2014 (section 12) also extends the scope of Scottish Landfill Tax (“SLfT”) to disposals made other than at authorised landfill sites.*

- Section 4 (disposal of material by way of landfill) is broadly consistent with section 65 FA 1996.
- Section 5 (authorised sites and environmental permits) is broadly consistent with section 66 FA 1996, although legislative references have been updated.
- Section 6(1) (disposal of material as waste) is broadly equivalent to section 64(1) Finance Act 1996. *Section 6(2) and (3) are new provisions which are intended to improve the understanding as to the matters that may be taken into account in determining whether a person intends to discard the material and therefore assist with the application of the test at section 6(1).*
- *Section 7 is a new provision that explains who is responsible for a disposal for the purposes of applying the test at section 6(1).*
- The activities listed at section 8 are broadly consistent with those listed in the Landfill Tax (Prescribed Landfill Site Activities) Order 2009, made under section 65A FA 1996. *However, in the Bill the activities are listed on the face of the legislation. There are some differences in how activities have been worded to clarify and tighten up the arrangements and reflect developments in case law.*
- The power at section 4(3) is broadly equivalent to that at section 65(5). *Section 46 FA 1996 also provides a wide power to vary provisions so as to make a disposal taxable that would not otherwise have been or vice versa. While the Bill contains specific powers to make amendments there is no direct equivalent to section 46.*

**Part 2, Chapter 3 and Part 3, Chapter 3 (ss. 19 -12 and ss. 25 -32): Exemptions and Reliefs**

**Summary**

- Activities that fall within the exemptions that are listed in Part 2 of the Bill will not be taxable disposals and no tax return will need to be filed in order to claim the exemption.
- There are currently two exemptions listed but a power is taken to create further exemptions via secondary legislation (subject to the affirmative procedure). The exemptions currently listed apply in the context of authorised landfill sites but the power could also be exercised to create exemptions in the context of unauthorised disposals.
- Activities that fall within the reliefs that are listed in Part 3 of the Bill will be taxable disposals but will not be chargeable to LDT if a relief is properly claimed in a tax return.
- There are currently four types of relief listed but a power is taken to create further reliefs via secondary legislation (subject to the affirmative procedure). A relief will only apply in the context of authorised landfill sites.



### **Key points of similarity and *difference* from FA 1996**

- The range of activities in relation to which LDT will not be charged is broadly consistent with those listed at sections 43 – 45 FA 1996. *However, in the Finance Act 1996 all such activities are classified as exemptions, although what is required of a landfill site operator does appear in practice to vary from one exemption to another (e.g. there is no return required to claim a pet cemetery exemption whereas other exemptions need to be claimed on a form and supporting documentation kept).*

- Section 11 (pet cemeteries exemption) is consistent with section 45 FA 1996.

- *Section 10 (multiple disposals) does not have a direct equivalent. Regulation 3(2) of the Landfill Tax (Prescribed Landfill Site Activities) Order 2009 provides that an activities will not be treated as a taxable disposal if it has already been chargeable to (or exempted from) landfill tax but there is no provision dealing with the opposite scenario (i.e. where a prescribed activity takes place before a taxable disposal is then made).*

- Section 26 (material removed from water) is broadly consistent (although with some changes) with section 43 FA 1996, *although is classified as a relief in the Bill.*

- Sections 27 (material from mining and quarrying) and 31 (refilling former quarries) are broadly equivalent to sections 44 and 44A FA 1996 respectively, *although is classified as a relief in the Bill.*

- *Sections 28 - 30 (material used for site restoration) represent a technical difference of approach from FA 1996 (see paragraph 1B of Schedule 5 FA 1996 and Article 3(1)(h) of the Landfill Tax (Prescribed Activities) Order 2009), where there is a requirement to notify site restoration work to HMRC, failing which the material used in the work will be treated as a prescribed activity and taxable. In contrast, site restoration work will always be a specified activity under section 8 of the Bill but a relief will be available under section 28 if the requirements are met. The practical effect of these two approaches should be broadly similar.*

- *Section 46 FA 1996 provides a wide power to vary provisions so as to make a disposal taxable that would not otherwise have been or vice versa. While the Bill contains specific powers to add, modify or delete exemptions or reliefs (ss. 12 and 32) there is no direct equivalent to section 46.*

### **Part 3, Chapters 1 and 2 (ss. 13 – 24): Tax Chargeable on Authorised Disposals**

#### **Summary**

- The landfill site operator is the person chargeable to LDT at an authorised landfill site.

- There will be a standard and a lower rate of LDT and that rate will be multiplied by the weight of material to calculate the amount of LDT that is chargeable.
- Regulations will list materials ("qualifying materials) that can qualify for the lower rate of tax along with any conditions that need to be met.
- A mixture of qualifying materials and standard rate material can qualify for the lower rate provided the list of requirements set out at section 16 are met.
- Further requirements can be specified in regulations in order for a load of fines material to qualify for the lower rate.
- Material must be weighed on a weighbridge unless WRA approve an application to weigh by an alternative method.
- Landfill site operators can apply to WRA for a water discount in certain specified circumstances and if granted, this has the effect of reducing the taxable weight of the material.
- WRA can calculate the weight of material itself if it thinks appropriate and by any method that it thinks appropriate.

### **Key points of similarity and *difference* from FA 1996**

- Section 13 (person chargeable to tax) is consistent with section 41 FA 1996.
- Section 14 (calculation of tax) is broadly consistent with section 42 FA 1996 in terms of the method of calculating tax, the provision of a standard and lower rate and the application of the lower rate to qualifying materials and qualifying fines. *However, section 14 does not set the rates on the face of the Bill; it provides a power for there to be different standard and lower rates for different descriptions of material and is more explicit in its treatment of mixed loads of material.*
- Section 15 (qualifying material) is comparable to section 42 FA 1996 in providing for qualifying materials to be set out in secondary legislation (with the option of attaching conditions) *but sets the requirement for a written description of material on the face of the Bill and does not adopt equivalent provisions to section 42(4)-(6) FA 1996.*
- *Section 16 is a new provision. Whether or not a mixed load qualifies for the lower rate of tax is an issue largely dealt with through directions and guidance in the UK, whereas the Bill tries to draw existing practice together and clarify it using a list of requirements in primary legislation.*
- Section 17(3) adopts the same definition of fines as section 70(1) FA 1996. As per the UK approach, the Bill reserves the detail of the tests that will need to be met to secondary legislation, although there is clear link to section 16 as these requirements also need to be met for fines to qualify for the lower rate.

*Much of the detail in section 16 is currently found in the Landfill Tax (Qualifying Fines) Order 2015 for the purposes of fines.*

*- Whereas the Bill sets out the detail as to how weighing and water discount will work, this is dealt with in regulations in the UK, under the power at section 68 FA 1996 (see Part X of the Landfill Tax Regulations 1996). There are some differences between the Bill and the provisions in those regulations- for example, whereas the Bill starts from the position that weighing will take place on a weighbridge, the UK regulations do not.*

*- Sections 22 and 23 are new provisions. However, the tax authority is able to issue assessments and determinations for tax under the FA 1996 regime and so must have to take a view as to the taxable weight of material that is the subject of such an assessment or determination.*

### **Part 3, Chapter 4 (ss. 33 -44): Tax Collection and Management**

#### **Summary**

- This Chapter deals with the administrative arrangements underlying the collection and management of LDT in the context of authorised landfill sites.

- Sections 33–37 deal with registration arrangements, which include placing a person carrying out taxable operations under a duty to register with WRA and placing WRA under a duty to keep a register of such persons.

- Sections 38-40 deal with accounting arrangements. Fundamentally, section 38(1) places a person who carries out taxable operations under a duty to make a tax return and sets out the contents and point in time by which that return must be filed and at which the tax becomes chargeable.

- Section 41 imposes a duty to pay LDT and the time by which payment must be made depending on the circumstances and section 42 requires a person carrying out taxable operations to maintain a record of tax chargeable and tax paid in each accounting period.

- This Chapter needs to be read in conjunction with the Tax Collection and Management (Wales) Act 2016<sup>1</sup> and makes some amendments to provisions in that Act.

#### **Key points of similarity and *difference* from FA 1996**

- These provisions take a broadly similar approach to the UK, although with some points of difference- for instance the creation of an explicit duty to register for LDT.

*- However, the most notable difference in this area is that many of the equivalent landfill tax provisions are found in secondary legislation. For example:*

---

<sup>1</sup> <http://www.senedd.assembly.wales/mgIssueHistoryHome.aspx?IId=12989>

- *The registration provisions are split between primary and secondary legislation in the UK (section 47 FA 1996 and regulations 4-6 of the Landfill Tax Regulations 1996).*
- *The equivalent accounting, payment and record keeping requirements to those outlined above are in secondary legislation in the UK (Part III of the Landfill Tax Regulations)*
- *Section 61 FA 1996 is the broad equivalent to section 40 of the Bill but whereas the Bill sets out the contents of a landfill invoice, this is done in regulations in the UK (regulation 37 of the Landfill Tax Regulations 1996)*

#### **Part 4 (ss. 45- 52): Taxable Disposals made at places other than authorised landfill sites**

##### **Summary**

- This Part provides for there to be an unauthorised disposals rate of tax and enables the WRA to make a person making a disposal, a person knowingly causing a disposal and/or a person knowingly permitting a disposal liable for LDT.
- This Part sets out a process that WRA must follow in order to trigger LDT liability and takes a power to make further or different provision, which is subject to the affirmative procedure.

##### **Key points of similarity and *difference* from FA 1996**

- *Landfill tax does not apply to unauthorised disposals and so there are no equivalent provisions in FA 1996.*
- *In Scotland, although provision has been made for SLfT to apply to unauthorised disposals, the Landfill Tax (Scotland) Act 2014 does not contain tailored provisions or create a separate rate of tax in relation to such disposals and so there are no equivalent provisions.*

#### **Part 5 (ss. 53-89): Supplementary Provision**

##### **Summary**

- Section 53 confers a power to make provision for tax credits in regulations.
- Chapter 2 (ss. 54-56) sets out a process by which WRA can designate part of an authorised landfill site as a non-disposal area, sets out what such a designation can cover, puts duties on landfill site operators to comply with a notice making such a designation and contains record keeping requirements in relation to that area.

- Section 58 adds further provision to the investigatory powers at Part 4, Chapter 4 of the Tax Collection and Management (Wales) Act 2016 for LDT purposes.
- Section 59 enables local authorities in Wales and Natural Resources Wales to share information with WRA to assist in the collection and management of LDT. WRA's ability to share information with other bodies is controlled by Part 2 of the Tax Collection and Management (Wales) Act 2016.
- Chapter 4 (ss. 60-72) sets out a number of new penalties that will apply for LDT purposes: these relate to weighing, registration and non-disposal area requirements and are separate from existing penalties under the Tax Collection and Management (Wales) Act 2016 (for example, for failure to file a tax return or pay tax on time).
- Chapter 5 (ss. 73-75) sets out a series of LDT specific amendments to existing penalties under the Tax Collection and Management (Wales) Act 2016.
- Chapter 6 (ss. 76-86) contains provisions dealing with specific scenarios that can arise in an LDT context: provisions allowing operators to apply to designate a group of companies so that one representative member handles the LDT responsibilities for the group; provisions dealing with partnerships and unincorporated bodies; provisions dealing with death, incapacity and insolvency and a power to make provision about the transfer of a business as a going concern.
- Section 87 allows for an adjustment to be made to contract for a taxable disposal at an authorised landfill site following a change to LDT legislation that affects the amount of tax chargeable.
- Section 88 confers a power to impose liability for LDT on controllers of authorised landfill sites.

### **Key points of similarity and *difference* from FA 1996**

- The power to make provision for tax credits using secondary legislation is broadly consistent with the UK approach (s. 51 FA 1996). *However, the power taken in the Bill includes a power to create penalties for failure to comply with requirements in those regulations. The Bill does not make separate provision for specific types of tax credit that could be created (ss. 52-53 FA 1996) as this was not considered necessary.*
- There is an equivalent concept to non-disposal areas in the UK, known as information areas. *However, these provisions are found in secondary legislation (Regulation 16A of the Landfill Tax Regulations 1996, made under the power at paragraph 1A of Schedule 5 FA 1996). There are substantive differences in terms of the application process, the test as to when an area must be used and the consequences for failure to comply.*

- Section 50 is the broad equivalent of paragraph 35 of Schedule 5 FA 1996, *although the FA 1996 provision is broader in that it also permits to disclosure of information from HMRC to the named bodies.*
- The provisions dealing with the designation of groups of companies are broadly consistent with section 59 FA 1996, *although with some changes and refinements having been made.*
- In relation to partnerships and unincorporated bodies, section 81 is broadly equivalent to section 58 FA 1996, *although with some changes and refinements having been made. The duties and liabilities of partnerships (section 82) are however dealt with in secondary legislation (regulation 8 of the Landfill Tax Regulations 1996).*
- *Provision relating to insolvency and incapacity appear in secondary legislation in the UK (regulation 9 of the Landfill Tax Regulations 1996, made under the power at section 58 FA 1996). They are broadly the equivalent to those in the Bill, although some changes and refinements have been made and notably, the Bill makes provision in the event of death, which although section 58 FA 1996 confers the power to do, the Regulations made under that power do not.*
- The power at section 86 to make provision for the transfer of a business as a going concern is the broad equivalent to the power at section 58(5) and (6) FA 1996, *although differs in that it allows for the imposition of penalties for failure to meet requirements and sets out detail as to the matters that could be covered by the regulations.*
- Section 87 is broadly equivalent to paragraphs 45 and 46 of Schedule 5 FA 1996 *save that section 87 makes it clear that there can only be an adjustment where a change is the result of an enactment.*
- Section 88 adopts the same definition of a controller as paragraph 48 of Schedule 5 FA 1996 *but differs in that Part VIII of Schedule 5 FA 1996 contains substantive provision on liability whereas section 88 takes a regulation making power. The power at section 88 is consistent with section 17 of the Landfill Tax (Scotland) Act 2014.*