

Reprint
as at 13 May 2021



Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009

(SR 2009/144)

Anand Satyanand, Governor-General

Order in Council

At Wellington this 18th day of May 2009

Present:

His Excellency the Governor-General in Council

Pursuant to sections 41 and 86 of the Waste Minimisation Act 2008, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and on the recommendation of the Minister for the Environment given in accordance with those sections, makes the following regulations.

Contents

	Page
1 Title	3
2 Commencement	3
3 Interpretation	3
3A Transitional, savings, and related provisions	5
3B Types of facilities	6

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry for the Environment.

<i>Operator of disposal facility pays levy</i>		
4	Operator of disposal facility must pay levy on waste disposed of at facility	7
5	Rate of levy	8
<i>Operator provides returns</i>		
6	Operator of disposal facility (other than approved facility) must provide monthly returns	8
7	Operator of approved facility must provide annual return	9
8	Return must include declaration	10
9	Request for approval to provide annual return	10
10	Request for extension of time to provide monthly return	10
<i>Operator measures gross tonnage and diverted tonnage</i>		
11	Gross tonnage and diverted tonnage must be measured	11
12	Gross tonnage measured by weight, volume conversion, or average tonnage	12
13	Diverted tonnage measured by weight or volume conversion	12
14	Conversion of volume to weight	13
15	Request for approval of average tonnage system	13
<i>Calculation of net tonnage</i>		
16	Calculation of net tonnage	14
<i>Levy payable for disposal facilities (other than approved facilities)</i>		
17	Provisions that apply to disposal facilities (other than approved facilities)	15
18	Calculation of levy payable each month	15
19	Levy collector must determine if levy to be estimated	15
20	Estimation of amount of levy payable	15
21	Levy collector must provide invoice to operator	16
<i>Levy payable for approved facilities</i>		
22	Provisions that apply to approved facilities	17
23	Calculation of levy payable each month	17
24	Levy collector must provide invoice to operator	17
25	Levy collector must determine if levy to be estimated	17
26	Estimation of amount of levy payable	18
27	Levy collector must reconcile levy payable	18
<i>Payment of levy by all disposal facilities</i>		
28	Payment of invoices for levy	19
29	Correction of levy payable	20
30	Request for extension of time to pay levy	20
31	Interest on unpaid levy	21
32	Method of paying levy	21
33	Request for refund of levy money	21

33A	Net tonnage when levy rate changes or first applies	22
	<i>Records and information for all disposal facilities</i>	
34	Operator must keep records	22
35	Operator must provide records and information	23
36	Notice of date on which to cease being operator	24
37	Records must be retained for 7 years	24
	<i>Secretary pays levy money to territorial authorities</i>	
38	Secretary must pay share of levy money to territorial authorities each quarter	24
	<i>General provisions</i>	
39	Due day on non-working day	25
40	Requirement for writing may be met electronically	25
	Schedule 1AA	26
	Transitional, savings, and related provisions	
	Schedule 1	28
	Conversion factors for volume-to-weight calculations	
	Schedule 2	29
	Levy rate	

Regulations

1 Title

These regulations are the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009.

2 Commencement

These regulations come into force on 1 July 2009.

3 Interpretation

(1) In these regulations, unless the context requires another meaning,—

Act means the Waste Minimisation Act 2008

approved facility, in respect of a financial year, means a disposal facility that has approval under regulation 9 to provide an annual return for that financial year

cleanfill facility: class 5 has the meaning given in regulation 3B(3)

compliant, in relation to a weighing or measuring instrument, means the instrument complies with the requirements of the Weights and Measures Act 1987

construction and demolition fill disposal facility: class 2 has the meaning given in regulation 3B(2)

disposal means—

- (a) any deposit of waste into or onto land set apart for that purpose unless, not later than 6 months after its deposit (or any later time that the Secretary has agreed to in writing), the waste is—
 - (i) reused or recycled; or
 - (ii) recovered or treated on the land and removed from the land for deposit elsewhere; or
 - (iii) removed from the land for any other reason; and
- (b) the deliberate burning of waste to destroy it, but not to recover energy from it

disposal facility has the meaning given in section 7 of the Act

diverted material means any thing that is no longer required for its original purpose and, but for commercial or other waste minimisation activities, would be disposed of or discarded

diverted tonnage, in relation to a disposal facility, has the meaning given by regulation 11

financial year means a period starting on 1 July and ending on 30 June of the following year

gross tonnage, in relation to a disposal facility, has the meaning given by regulation 11

household waste means waste from a household that is not entirely from construction, renovation, or demolition of the house

industrial monofill facility has the meaning given in regulation 3B(3)

inert waste material means waste that—

- (a) is neither chemically nor biologically reactive; and
- (b) does not decompose or undergo any change in its chemical properties; and
- (c) does not alter the chemical properties of any other material

levy collector, in relation to a disposal facility, means—

- (a) a person appointed in accordance with section 40(1)(a) of the Act to collect the levy from the operator of the facility; or
- (b) the Secretary, if no such person has been appointed

managed or controlled fill disposal facility: classes 3 and 4 has the meaning given in regulation 3B(2)

municipal disposal facility: class 1 has the meaning given in regulation 3B(2)

net tonnage, in relation to a disposal facility, means the amount calculated under regulation 16

operator means the person in control of a disposal facility

waste—

- (a) means any thing disposed of or discarded; and
 - (b) includes a type of waste that is defined by its composition or source (for example, organic waste, electronic waste, or construction and demolition waste); and
 - (c) to avoid doubt, includes any component or element of diverted material, if the component or element is disposed of or discarded.
- (2) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in these regulations has the meaning given by the Act.

Regulation 3(1) **cleanfill facility: class 5**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **construction and demolition fill disposal facility: class 2**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **disposal facility**: replaced, on 13 May 2021, by regulation 4(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **household waste**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **industrial monofill facility**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **inert waste material**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **managed or controlled fill disposal facility: classes 3 and 4**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 3(1) **municipal disposal facility: class 1**: inserted, on 13 May 2021, by regulation 4(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

3A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Regulation 3A: inserted, on 13 May 2021, by regulation 5 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

3B Types of facilities

- (1) The facilities defined in subclause (2) are prescribed as disposal facilities under section 7(b) of the Act.

Prescribed disposal facilities

- (2) In these regulations,—

construction and demolition fill disposal facility: class 2 means a facility, including a landfill, that—

- (a) accepts for disposal waste that is or includes solid waste from construction and demolition activity; and
- (b) does not accept any of the following for disposal:
 - (i) household waste:
 - (ii) waste from commercial or industrial sources:
 - (iii) waste from institutional sources (for example, hospitals, educational facilities, and aged care facilities):
 - (iv) waste generated from a single industrial process (for example, steel or aluminium making, or pulp and paper making) carried out in 1 or more locations; and
- (c) is not also a managed or controlled fill disposal facility: classes 3 and 4

managed or controlled fill disposal facility: classes 3 and 4 means a facility that—

- (a) accepts any 1 or more of the following for disposal:
 - (i) inert waste material from construction and demolition activities:
 - (ii) inert waste material from earthworks or site remediation; and
- (b) does not accept any of the following for disposal:
 - (i) household waste:
 - (ii) waste from commercial or industrial sources:
 - (iii) waste from institutional sources (for example, hospitals, educational facilities, and aged care facilities):
 - (iv) waste generated from a single industrial process (for example, steel or aluminium making, or pulp and paper making) carried out in 1 or more locations:
 - (v) waste material from construction and demolition activity (except for inert waste material)

municipal disposal facility: class 1 means a facility, including a landfill,—

- (a) at which waste is disposed of; and
- (b) that operates, at least in part, as a business to dispose of waste; and

- (c) that accepts for disposal waste that is or includes any 1 or more of the following:
 - (i) household waste;
 - (ii) waste from commercial or industrial sources;
 - (iii) waste from institutional sources (for example, hospitals, educational facilities, and aged care facilities);
 - (iv) green waste (for example, degradable plant materials such as tree branches, leaves, grass, and other vegetation matter);
 - (v) waste that is not accepted at a facility referred to in paragraph (d); and
- (d) that is not also a cleanfill facility: class 5, a construction and demolition fill disposal facility: class 2, an industrial monofill facility, or a managed or controlled fill disposal facility: classes 3 and 4.

Other facilities

- (3) In these regulations,—

cleanfill facility: class 5 means a facility that accepts only virgin excavated natural material (such as clay, soil, or rock) for disposal

industrial monofill facility means a facility that accepts for disposal waste that—

- (a) discharges or could discharge contaminants or emissions; and
- (b) is generated from a single industrial process (for example, steel or aluminium making, or pulp and paper making) carried out in 1 or more locations.

Regulation 3B: inserted, on 13 May 2021, by regulation 5 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Operator of disposal facility pays levy

4 Operator of disposal facility must pay levy on waste disposed of at facility

- (1) Under section 26 of the Act, a levy is imposed on waste disposed of at a disposal facility.
- (2) Under section 28 of the Act,—
 - (a) the operator of a disposal facility must pay the levy on waste disposed of at the facility; and
 - (b) the levy must be paid to the levy collector in the manner and at the times specified in these regulations; and
 - (c) the amount of levy payable must be calculated in accordance with these regulations.

5 Rate of levy

- (1) The levy payable on the amount of waste disposed of at a prescribed disposal facility is—
 - (a) the applicable prescribed rate per tonne; or
 - (b) the applicable prescribed rate per unit of volume, that, in accordance with these regulations, is considered equivalent to a tonne.
- (2) In this regulation, **applicable prescribed rate** means the rate of levy (exclusive of goods and services tax) prescribed in Schedule 2 that applies to the disposal facility.

Regulation 5: replaced, on 13 May 2021, by regulation 6 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Operator provides returns

6 Operator of disposal facility (other than approved facility) must provide monthly returns

- (1) This regulation applies to a disposal facility in respect of each financial year, unless the facility has approval under regulation 9 to provide an annual return for the financial year.
- (2) The operator of the disposal facility must provide to the levy collector a monthly return for each month of the financial year.
- (2A) If an operator is operating more than 1 disposal facility on the same site, the operator must provide a monthly return for each disposal facility.
- (3) The operator must provide the monthly return on or before the 20th day of the month after the month to which the return relates.
- (4) The monthly return must specify the following information for the month to which it relates:
 - (a) the name of the disposal facility and its type:
 - (aa) the site number (if applicable) and the physical address at which the facility is located:
 - (b) the full name, contact details, and client number (if applicable) of the operator; and
 - (c) the full name and contact details of the person who prepared the return (unless it was the operator); and
 - (d) the month and the year for which information is being provided; and
 - (e) the gross tonnage for the month (measured under regulations 11 and 12); and
 - (f) the diverted tonnage for the month (measured under regulations 11 and 13); and
 - (g) the net tonnage for the month (calculated under regulation 16).

Example

The monthly return for July is due on or before 20 August.

Regulation 6(2A): inserted, on 13 May 2021, by regulation 7(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 6(4)(a): replaced, on 13 May 2021, by regulation 7(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 6(4)(aa): inserted, on 13 May 2021, by regulation 7(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

7 Operator of approved facility must provide annual return

- (1) This regulation applies to an approved facility in respect of a financial year for which the facility has approval under regulation 9 to provide an annual return.
- (2) The operator of the approved facility must provide the annual return to the levy collector on or before 20 July after the end of the financial year to which the return relates.
- (2A) If an operator is operating more than 1 approved facility on the same site, the operator must provide an annual return for each approved facility.
- (3) The annual return must specify the following information for the financial year to which it relates:
 - (a) the name of the approved facility and its type:
 - (aa) the site number (if applicable) and the physical address at which the facility is located:
 - (b) the full name, contact details, and client number (if applicable) of the operator; and
 - (c) the full name and contact details of the person who prepared the return (unless it was the operator); and
 - (d) the dates on which the financial year started and ended; and
 - (e) the gross tonnage for the financial year (measured under regulations 11 and 12); and
 - (f) the diverted tonnage for the financial year (measured under regulations 11 and 13); and
 - (g) the net tonnage for the financial year (calculated under regulation 16).

Example

The annual return for the first financial year (starting on 1 July 2009 and ending on 30 June 2010) is due on or before 20 July 2010.

Regulation 7(2A): inserted, on 13 May 2021, by regulation 8(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 7(3)(a): replaced, on 13 May 2021, by regulation 8(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 7(3)(aa): inserted, on 13 May 2021, by regulation 8(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

8 Return must include declaration

- (1) A return required by these regulations must include a declaration that the operator, or the authorised representative of the operator, believes that the information in the return is correct.
- (2) A return must be provided—
 - (a) electronically; or
 - (b) in writing, in which case the person giving the declaration must sign and date the declaration.

9 Request for approval to provide annual return

- (1) The operator of a disposal facility may, if the expected net tonnage of the facility for a financial year is 1 000 tonnes or less, make a written request to the levy collector for approval to provide an annual return for the financial year.
- (2) The operator must make the request on or before 20 July of the financial year for which approval is requested.
- (3) The request must include—
 - (a) the expected net tonnage of the facility for the financial year; and
 - (b) evidence of how the operator has determined the expected net tonnage.
- (4) The levy collector must consider the request on receiving it.
- (5) The levy collector may, if satisfied that the expected net tonnage of the facility for the financial year is 1 000 tonnes or less,—
 - (a) approve the request for the disposal facility to provide an annual return; and
 - (b) if approval is given, make its own determination of the expected net tonnage of the facility for the financial year.
- (6) The levy collector must, on or before 1 August of the financial year,—
 - (a) provide written notice of its decision to the operator; and
 - (b) if approval is given, specify the expected net tonnage of the facility as determined by the levy collector.

Example

If the operator of a disposal facility wants to provide an annual return for the first financial year (starting on 1 July 2009), it must request approval on or before 20 July 2009.

The levy collector must provide written notice of its decision on or before 1 August 2009.

10 Request for extension of time to provide monthly return

- (1) If the operator of a disposal facility considers that it will be unable to provide a monthly return on or before the due day for the return specified in regulation

- 6(3), the operator may, in writing, request the levy collector to allow more time to provide the return.
- (2) The operator must make the request on or before the day that is 15 days before the due day for the return.
 - (3) The request must state why the operator is unable to provide the return in time.
 - (4) The levy collector must consider the request on receiving it.
 - (5) The levy collector may, at its discretion,—
 - (a) allow the operator an extension of no more than 1 month; and
 - (b) if an extension is allowed, impose any conditions in relation to the return.
 - (6) The levy collector must, on or before the day that is 5 days before the due day for the return,—
 - (a) provide written notice of its decision to the operator; and
 - (b) if an extension is allowed, specify the new due day for the return and any conditions imposed in relation to the return.
 - (7) If the levy collector's written notice allows an extension,—
 - (a) the due day for the return becomes the new due day specified in the notice; and
 - (b) the requirement to provide the return is subject to any conditions specified in the notice.
 - (8) To avoid doubt,—
 - (a) in any other case the due day for the return does not change; and
 - (b) the operator may seek only 1 extension to the due day for a specific return.

Example

The monthly return for July is due on or before 20 August.

If the operator wants the due day extended, it must request an extension on or before 5 August.

The levy collector must provide written notice of its decision on or before 15 August.

Operator measures gross tonnage and diverted tonnage

11 Gross tonnage and diverted tonnage must be measured

- (1) The operator of a disposal facility must measure, in accordance with regulation 12 or 13,—
 - (a) the tonnage of waste or diverted material that enters the disposal facility (**gross tonnage**); and

- (b) the tonnage of waste or diverted material that is reused or recycled at the disposal facility, or is removed from the facility, not later than 6 months after entering the facility (or any later time that the Secretary has agreed to in writing) (**diverted tonnage**).
- (2) However, subclause (1) is modified by subclause (4).
- (3) *[Revoked]*
- (4) The measurement of diverted tonnage must—
 - (a) include only waste or diverted material that was previously measured as gross tonnage, and not include anything else (such as anything that is not waste or diverted material or any waste or diverted material that entered the disposal facility before the commencement of these regulations); and
 - (b) include waste or diverted material that is deliberately burnt at the facility to recover energy from it (subject to paragraph (a)); but
 - (c) not include waste that is deliberately burnt at the facility to destroy it, but not to recover energy from it.

Regulation 11(2): amended, on 13 May 2021, by regulation 9(1) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Regulation 11(3): revoked, on 13 May 2021, by regulation 9(2) of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

12 Gross tonnage measured by weight, volume conversion, or average tonnage

- (1) If there is a compliant and functioning weighbridge at a disposal facility, the gross tonnage must be measured by using the weighbridge to weigh the waste or diverted material that enters the facility.
- (2) In any other case, the gross tonnage must be measured by either—
 - (a) using any other compliant weighbridge to weigh the waste or diverted material that enters the facility; or
 - (b) using a conversion factor to convert the volume of that waste or diverted material into weight in accordance with regulation 14.
- (3) Despite subclauses (1) and (2), if the operator of a disposal facility has approval for an average tonnage system under regulation 15, the gross tonnage of waste or diverted material that enters the facility in a type of motor vehicle to which the system applies may be ascribed under that system.

13 Diverted tonnage measured by weight or volume conversion

The diverted tonnage must be measured by either—

- (a) using any compliant weighbridge to weigh the relevant waste or diverted material; or
- (b) using a conversion factor to convert the volume of the relevant waste or diverted material into weight in accordance with regulation 14.

14 Conversion of volume to weight

- (1) This regulation applies if the operator of a disposal facility uses a conversion factor to convert the volume of waste or diverted material into weight.
- (2) The tonnage of the waste or diverted material is calculated in accordance with the following formula:

$$\text{tonnage} = \text{assessed volume} \times \text{conversion factor}$$

where—

assessed volume is the volume assessed under subclause (3)
conversion factor is the conversion factor applied under subclause (4).

- (3) The operator must assess the volume of the waste or diverted material by either—
 - (a) measuring the volume using a compliant measuring instrument; or
 - (b) estimating the volume as accurately as possible.
- (4) The operator must apply the conversion factor specified in Schedule 1 that the operator considers best applies to the waste or diverted material.

15 Request for approval of average tonnage system

- (1) The operator of a disposal facility may, in writing and at any time, request the Secretary to approve the use of an average tonnage system that ascribes a weight to waste or diverted material that enters the facility based on the type of motor vehicle it is carried in.
- (2) An average tonnage system may apply only to 1 or more of the following:
 - (a) light motor vehicles, meaning motor vehicles that have a gross vehicle mass of 3 500 kg or less:
 - (b) motor vehicles of classes MA (passenger cars), MB (forward control passenger vehicles), MC (off-road passenger vehicles), MD1 and MD2 (certain light buses), NA (light goods vehicles), NB (medium goods vehicles), and NC (heavy goods vehicles) (as those classes are defined in table A of Part 2 of Land Transport Rule 33020: Fuel Consumption Information 2008):
 - (c) trailers towed by vehicles referred to in paragraph (a) or (b).
- (3) The operator's request must include the following:
 - (a) a description of each type of motor vehicle to which the average tonnage system will apply; and
 - (b) the average tonnage of waste or diverted material that has been calculated as being carried in each type of vehicle (which will be ascribed to waste or diverted material that enters the facility in that type of vehicle); and

- (c) the extent to which the average tonnage for each type of vehicle was calculated based on measurements using a compliant weighbridge or a conversion factor; and
 - (d) evidence that the calculation of the average tonnage for each type of vehicle is based on a reasonably representative sample of the vehicles (including evidence of the number of vehicles in the sample and the period during which the sample was taken).
- (4) The Secretary must consider the request on receiving it.
 - (5) The Secretary may, if satisfied that the calculation of the average tonnage for each type of vehicle is based on a reasonably representative sample of the vehicles,—
 - (a) approve the average tonnage system; and
 - (b) if approval is given, determine the period during which the approval applies, which must be a period of 3 years or less.
 - (6) The Secretary must, as soon as practicable after making his or her decision,—
 - (a) provide written notice of the decision to the operator; and
 - (b) if approval is given, specify the period during which the approval applies.
 - (7) The Secretary may, at any time, revoke the approval of an average tonnage system by giving written notice to the operator.
 - (8) To avoid doubt, the description of a type of motor vehicle included in an operator's request under subclause (3)(a) need not coincide with a class of motor vehicle referred to in subclause (2).

Regulation 15(2)(b): amended, on 13 May 2021, by regulation 10 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Calculation of net tonnage

16 Calculation of net tonnage

Net tonnage is calculated in accordance with the following formula:

$$\text{net tonnage} = \text{gross tonnage} - \text{diverted tonnage}$$

where—

gross tonnage is the gross tonnage specified in an operator's monthly or annual return

diverted tonnage is the diverted tonnage specified in an operator's monthly or annual return.

Levy payable for disposal facilities (other than approved facilities)

17 Provisions that apply to disposal facilities (other than approved facilities)

Regulations 18 to 21 apply to a disposal facility in respect of each financial year, unless the facility has approval under regulation 9 to provide an annual return for the financial year.

18 Calculation of levy payable each month

- (1) The levy collector must calculate the amount of levy payable by the operator of a disposal facility for each month of the financial year.
- (2) The amount of levy payable for a month is calculated in accordance with the following formula:

$$\text{levy payable} = \text{rate of levy} \times \text{net tonnage}$$

where—

rate of levy is the rate of levy specified in regulation 5
net tonnage is the amount calculated by the levy collector under regulation 16 from the operator's monthly return.

- (3) This regulation is subject to regulations 19 and 20.

19 Levy collector must determine if levy to be estimated

- (1) The levy collector must determine, for the purposes of regulation 20, if section 34 of the Act applies in respect of the levy payable for a month by the operator of a disposal facility.
- (2) The levy collector must make its determination—
 - (a) upon receiving the operator's monthly return for the month; or
 - (b) after the due day for the return, if the levy collector does not receive the return on or before that day.
- (3) Section 34 of the Act states that it applies if the levy collector considers that an amount of levy payable by an operator under section 28 of the Act cannot be accurately calculated because the operator—
 - (a) did not provide records or information in accordance with any prescribed requirement; or
 - (b) provided records or information that the levy collector considers, on reasonable grounds, to be incomplete or incorrect.

20 Estimation of amount of levy payable

- (1) If the levy collector determines, under regulation 19, that section 34 of the Act applies in respect of any levy payable by an operator for a month, the levy collector may estimate the amount of levy payable in accordance with this regulation.

- (2) The levy collector must provide the operator with an initial estimate of the levy payable for the month on or before the fifth day after the due day for the month's return.
- (3) The levy collector must make the final estimate of the levy payable for the month in time for it to be specified in the invoice required by regulation 21 (which must be provided to the operator on or before the 15th day after the due day for the month's return).
- (4) In making the final estimate, the levy collector must consider any relevant information provided by the operator in response to the initial estimate.
- (5) In making the initial estimate or the final estimate, the levy collector must—
 - (a) use the methodology that the levy collector considers to be best; and
 - (b) consider the best information available to the levy collector.
- (6) The information available to the levy collector may include, for example,—
 - (a) the operator's return for the previous month; or
 - (b) the operator's return for the same month of a previous financial year; or
 - (c) the average amount of levy payable by the operator for each month in a previous financial year; or
 - (d) any information held by the Secretary on waste disposal in New Zealand.

21 Levy collector must provide invoice to operator

- (1) The levy collector must provide an invoice to the operator of a disposal facility for the levy payable for each month.
- (2) The levy collector must provide the invoice on or before the 15th day after the due day for the month's return.
- (3) If the levy collector has not estimated the amount of levy payable for the month in accordance with regulation 20, the invoice must specify the amount calculated under regulation 18 as the amount payable.
- (4) If the levy collector has estimated the amount of levy payable for the month in accordance with regulation 20, the invoice must specify the amount of the final estimate under regulation 20 as the amount payable and include a written demand for that amount.

Example

The operator of a disposal facility must pay the levy for July.

If the operator provides a monthly return, on or before 20 August, that allows the amount of levy payable for July to be accurately calculated, the levy collector must provide an invoice for that amount to the operator on or before 4 September.

If the operator does not provide such a return on or before 20 August, the levy collector must, on or before 25 August, provide the operator with an initial estimate of the amount of levy payable for July. The levy collector must then make a final esti-

mate of the amount, and provide an invoice for that amount to the operator, on or before 4 September.

Levy payable for approved facilities

22 Provisions that apply to approved facilities

Regulations 23 to 27 apply only to an approved facility in respect of a financial year for which the facility has approval under regulation 9 to provide an annual return.

23 Calculation of levy payable each month

- (1) The levy collector must calculate the amount of levy payable by the operator of an approved facility for each month of the financial year.
- (2) The amount of levy payable for a month is calculated in accordance with the following formula:

$$\text{levy payable} = \text{rate of levy} \times \frac{\text{expected net tonnage}}{12}$$

where—

- | | |
|----------------------|--|
| rate of levy | is the rate of levy specified in regulation 5 |
| expected net tonnage | is the expected net tonnage of the facility for the financial year as specified by the levy collector under regulation 9(6). |

24 Levy collector must provide invoice to operator

- (1) The levy collector must provide an invoice to the operator of an approved facility for the levy payable for each month.
- (2) The levy collector must provide the invoice on or before the fifth day of the second month after the month for which the levy is payable.
- (3) The invoice must specify the amount calculated under regulation 23 as the amount of levy payable for the month.

Example

The operator of an approved facility must pay the levy for July.

The levy collector must provide an invoice for the levy on or before 5 September.

25 Levy collector must determine if levy to be estimated

- (1) The levy collector must determine, for the purposes of regulation 26, if section 34 of the Act applies in respect of the levy payable for a financial year by the operator of an approved facility.
- (2) The levy collector must make its determination—
 - (a) upon receiving the operator's annual return for the financial year; or

- (b) after the due day for the return (which is 20 July after the end of the financial year), if the levy collector does not receive the return on or before that day.
- (3) Section 34 of the Act states that it applies if the levy collector considers that an amount of levy payable by an operator under section 28 of the Act cannot be accurately calculated because the operator—
 - (a) did not provide records or information in accordance with any prescribed requirement; or
 - (b) provided records or information that the levy collector considers, on reasonable grounds, to be incomplete or incorrect.

26 Estimation of amount of levy payable

- (1) If the levy collector determines, under regulation 25, that section 34 of the Act applies in respect of any levy payable by an operator for a financial year, the levy collector may estimate the amount of levy payable in accordance with this regulation.
- (2) The levy collector must provide the operator with an initial estimate of the levy payable for the financial year on or before 25 July after the financial year.
- (3) The levy collector must provide the operator with a final estimate of the levy payable for the financial year on or before 5 August after the financial year.
- (4) In making the final estimate, the levy collector must consider any relevant information provided by the operator in response to the initial estimate.
- (5) In making the initial estimate or the final estimate, the levy collector must—
 - (a) use the methodology that the levy collector considers to be best; and
 - (b) consider the best information available to the levy collector.
- (6) The information available to the levy collector may include, for example,—
 - (a) the operator's annual returns for previous financial years; or
 - (b) the operator's monthly returns for previous financial years; or
 - (c) any information held by the Secretary on waste disposal in New Zealand.

27 Levy collector must reconcile levy payable

- (1) The levy collector must ensure that the operator of an approved facility is ultimately invoiced for the correct amount of levy for the financial year.
- (2) If the levy collector has not estimated the amount of levy payable for the financial year in accordance with regulation 26, the correct amount of levy for the financial year is calculated in accordance with the following formula:

levy payable = rate of levy × net tonnage

where—

rate of levy is the rate of levy specified in regulation 5
net tonnage is the amount calculated by the levy collector under regulation 16 from the operator's annual return.

- (3) If the levy collector has estimated the amount of levy payable for the financial year in accordance with regulation 26, the correct amount of levy for the financial year is the amount of the final estimate under regulation 26.
- (4) The levy collector may issue any invoices or credit notes, or increase or reduce the amount of levy payable under any other invoice, to ensure that the correct amount of levy is paid.
- (5) An invoice may specify a due day for payment that is no earlier than 1 month after the day on which the invoice is issued.
- (6) An invoice or credit note that includes the amount of the final estimate under regulation 26 must include a written demand for that amount.
- (7) If, on issuing a credit note to the operator, the levy collector will owe money to the operator, the levy collector must reimburse that money when issuing the credit note.

Example

The operator of an approved facility must pay the levy for the first financial year (starting on 1 July 2009 and ending on 30 June 2010).

The operator pays monthly invoices based on the expected net tonnage for the financial year.

But the levy collector must ensure that the operator is ultimately invoiced for the correct amount of levy for the financial year.

If the operator provides an annual return, on or before 20 July 2010, that allows the amount of levy payable for the financial year to be accurately calculated, the levy collector then determines if that amount is more or less than the total of the operator's monthly payments for the financial year.

If the operator does not provide such a return on or before 20 July 2010, the levy collector must, on or before 25 July 2010, provide the operator with an initial estimate of the amount of levy payable for the financial year. The levy collector must then provide a final estimate of the amount on or before 5 August 2010. The levy collector then determines if that amount is more or less than the total of the operator's monthly payments for the financial year.

Payment of levy by all disposal facilities

28 Payment of invoices for levy

- (1) The operator of a disposal facility must pay the amount of levy specified as payable in an invoice provided by the levy collector.

- (2) The amount of levy specified in an invoice provided under regulation 21 or 24 must be paid on or before the 20th day of the third month after the month for which the levy is payable.
- (3) The amount of levy specified in an invoice provided under regulation 27 or 29 must be paid on or before the due day specified in the invoice.

Example

The operator of a disposal facility must pay the levy for July on or before 20 October.

29 Correction of levy payable

- (1) This regulation applies if the levy collector determines that the operator of a disposal facility has, at any time, been issued an invoice or credit note under regulation 21, 27, or 31, or under this regulation, for an incorrect amount (because, for example, the information in the operator's return was incorrect or the levy collector miscalculated the levy payable).
- (2) However, this regulation does not apply in relation to an invoice provided under regulation 21 or 27 for an amount of levy that was estimated in accordance with regulation 20 or 26.
- (3) The levy collector must ensure that the operator is ultimately invoiced for the correct amount of levy.
- (4) The levy collector may issue any invoices or credit notes, or increase or reduce the amount of levy payable under any other invoice, to ensure that the correct amount of levy is paid.
- (5) An invoice may specify a due day for payment that is no earlier than 1 month after the day on which the invoice is issued.
- (6) If, on issuing a credit note to the operator, the levy collector will owe money to the operator, the levy collector must reimburse that money when issuing the credit note.

30 Request for extension of time to pay levy

- (1) If the operator of a disposal facility considers that it will be unable to pay the levy on or before the due day for payment specified in regulation 28, the operator may, in writing, request the levy collector to allow more time to pay the levy.
- (2) The operator must make the request on or before the day that is 15 days before the due day for payment.
- (3) The request must state why the operator is unable to pay the levy in time.
- (4) The levy collector must consider the request on receiving it.
- (5) The levy collector may, at its discretion,—
 - (a) allow the operator an extension of no more than 1 month; and

- (b) if an extension is allowed, impose any conditions in relation to the payment.
- (6) The levy collector must, on or before the day that is 5 days before the due day for payment,—
 - (a) provide written notice of its decision to the operator; and
 - (b) if an extension is allowed, specify the new due day for payment and any conditions imposed in relation to the payment.
- (7) If the levy collector's written notice allows an extension,—
 - (a) the due day for payment becomes the new due day specified in the notice; and
 - (b) the requirement to make the payment is subject to any conditions specified in the notice.
- (8) To avoid doubt,—
 - (a) in any other case the due day for payment does not change; and
 - (b) the operator may seek only 1 extension to the due day for a specific payment.

Example

The levy for July is due on or before 20 October.

If the operator wants the due day extended, it must request an extension on or before 5 October.

The levy collector must provide written notice of its decision on or before 15 October.

31 Interest on unpaid levy

- (1) The levy collector must provide an invoice or invoices to the operator of a disposal facility for interest that, in accordance with section 35 of the Act, becomes payable on any levy that is not paid on or before the due day for payment.
- (2) The operator must immediately pay the interest specified in an invoice provided under subclause (1).

32 Method of paying levy

The operator of a disposal facility must pay the levy to the levy collector by—

- (a) cheque; or
- (b) electronic funds transfer; or
- (c) another method agreed with the levy collector.

33 Request for refund of levy money

- (1) The operator of a disposal facility may make a written request to the levy collector for a refund of levy money it has paid if, when the levy money was paid,

the Secretary had waived, under section 29 of the Act, the requirement to pay that levy money.

- (2) The request must include evidence that subclause (1) applies to the levy money.
- (3) The levy collector must, if satisfied that subclause (1) applies to the levy money, arrange for the Secretary to refund the levy money to the operator.
- (4) To avoid doubt, this regulation does not affect any right of an operator to be reimbursed money that it paid to the levy collector, but that was never due as a levy (and so was not actually paid as levy money).

33A Net tonnage when levy rate changes or first applies

- (1) This regulation applies if—
 - (a) all or part of the gross tonnage that entered a disposal facility in one month (the **earlier month**) becomes diverted tonnage in a later month (the **later month**); and
 - (b) either—
 - (i) a levy applies in the later month to the facility for the first time; or
 - (ii) a different rate of levy applies in the later month to the facility.
- (2) The calculation of net tonnage for the facility for the later month must exclude any diverted tonnage that was measured as gross tonnage in the earlier month.
- (3) Instead, there must be deducted from the amount of levy payable by the facility for the later month, an amount that reflects the levy payable on that diverted tonnage at the earlier rate.
- (4) The operator of the facility must include in the return required by regulation 6 or 7 (as applicable) the amount of diverted tonnage that is subject to the earlier rate.
- (5) In this regulation, the **earlier rate** is the rate of levy that applied to the facility in the earlier month, or zero if no levy applied in the earlier month.

Regulation 33A: inserted, on 13 May 2021, by regulation 11 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Records and information for all disposal facilities

34 Operator must keep records

- (1) The operator of a disposal facility must keep the original records of the following matters for each individual measurement of the tonnage of waste or diverted material that makes up gross tonnage or diverted tonnage for the facility:
 - (a) the tonnage of the waste or diverted material as measured; and
 - (b) whether the tonnage was measured by—
 - (i) weighing it using a weighbridge at the facility; or
 - (ii) weighing it using a weighbridge not at the facility; or

- (iii) using a conversion factor to convert volume into weight; or
 - (iv) ascribing an average tonnage under an average tonnage system;
and
 - (c) the date the waste or diverted material entered the facility or, in the case of an approved facility, the date or the period during which the waste or diverted material entered the facility; and
 - (d) the date and time the tonnage of the waste or diverted material was measured; and
 - (e) if the tonnage of the waste or diverted material was weighed using a weighbridge not at the facility, the weighbridge ticket issued for that weighbridge and the registration plate details of the motor vehicle that carried the waste or diverted material to the facility; and
 - (f) if the tonnage of the waste or diverted material was measured using a conversion factor to convert volume into weight,—
 - (i) the volume of the waste or diverted material as assessed; and
 - (ii) whether the volume was assessed by measuring it (using a compliant measuring instrument) or by estimating it; and
 - (iii) the conversion factor applied to the waste or diverted material;
and
 - (g) if the tonnage of the waste or diverted material was ascribed under an average tonnage system, the type of motor vehicle in which the waste or diverted material was carried.
- (2) The operator of a disposal facility must keep records of the following matters for each month:
- (a) the amount of levy the operator paid to the levy collector for the month;
and
 - (b) any monthly return provided for the month.
- (3) The operator of a disposal facility must keep records of the following matters for each financial year:
- (a) the details of any average tonnage system that had approval under regulation 15 during any part of the financial year; and
 - (b) any annual return provided for the financial year; and
 - (c) any request made under regulation 9 for approval to provide an annual return for the financial year (including the facility's expected net tonnage for the financial year and evidence of how the operator determined that tonnage).

35 Operator must provide records and information

- (1) The levy collector or the Secretary may, in writing, request from the operator of a disposal facility—

- (a) any records these regulations require the operator to keep; or
 - (b) any other records or information to enable the amount of levy payable by the operator to be accurately calculated.
- (2) The operator must provide the records and information to the levy collector or the Secretary (as the case may be) as soon as is reasonably practicable after receiving the request.
- (3) The records and information must be provided in writing.

36 Notice of date on which to cease being operator

- (1) The operator of a disposal facility must give written notice to the levy collector of the date on which it is to cease being the operator of the facility.
- (2) The notice must be given on or before the day that is 10 days before that date.

37 Records must be retained for 7 years

Records required by these regulations must be retained for at least 7 years after payment of the levy to which the records relate.

Secretary pays levy money to territorial authorities

38 Secretary must pay share of levy money to territorial authorities each quarter

- (1) Under section 31 of the Act,—
- (a) the Secretary must pay each territorial authority a share of the total levy money collected in respect of a financial year; and
 - (b) the territorial authority's share of the total levy money for that financial year is calculated under section 31(2) of the Act.
- (2) The Secretary must pay a territorial authority its share of levy money for a financial year by quarterly payments on 20 January, 20 April, 20 July, and 20 October.
- (3) The quarterly share to be paid to a territorial authority on each date is calculated using the following formula:

$$\text{quarterly share} = \frac{(\text{levy collected} - \text{levy refunded})}{2} \times \frac{\text{district's population}}{\text{total population}}$$

where—

levy collected	is the levy money collected in respect of that financial year during the 3-month period ending on the day that is 1 month before the day on which the payment is to be made
levy refunded	is the levy money refunded in respect of that financial year during the 3-month period ending on the day that is 1 month before the day on which the payment is to be made

- | | |
|-----------------------|--|
| district's population | has the same meaning as in section 31(2) of the Act |
| total population | has the same meaning as in section 31(2) of the Act. |
- (4) However,—
- (a) the Secretary may reduce payments by retaining levy money in accordance with section 33 of the Act; and
 - (b) the Secretary may increase or reduce payments so that a territorial authority ultimately receives the share calculated under section 31(2) of the Act (less any amounts retained under section 33 of the Act) if levy money is received or refunded in respect of any financial year other than the year for which shares are being paid; and
 - (c) in subclause (3), the levy collected for the first quarterly payment on 20 January 2010, in respect of the first financial year (starting on 1 July 2009), includes any levy money collected before the first 3-month collection period (starting on 21 September 2009 and ending on 20 December 2009).
- (5) The Secretary must pay the territorial authority by—
- (a) cheque; or
 - (b) electronic funds transfer; or
 - (c) another method agreed with the territorial authority.

Example

The district of a particular territorial authority has 1/10th of the total population. \$200,000 of levy money is collected, in respect of the financial year starting on 1 July 2009, during the period from 21 September to 20 December 2009 (and no levy money is refunded).
On 20 January 2010, the Secretary must pay the territorial authority \$10,000 ($\$200,000/2 \times 1/10$).

General provisions

39 Due day on non-working day

If these regulations provide that a thing must or may be done on a particular day or within a limited period of time, and that day or the last day of that period is not a working day (as defined by section 29 of the Interpretation Act 1999), the thing may be done on the next working day.

40 Requirement for writing may be met electronically

If these regulations provide that something must or may be done in writing, it may be done electronically in accordance with Part 4 of the Contract and Commercial Law Act 2017.

Regulation 40: amended, on 1 September 2017, by section 347 of the Contract and Commercial Law Act 2017 (2017 No 5).

Schedule 1AA

Transitional, savings, and related provisions

r 3A

Schedule 1AA: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Part 1

Provisions relating to Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021

Schedule 1AA Part 1: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

1 Current rate of levy continues until 1 July 2021

- (1) The rate of levy specified in regulation 5, before that regulation was amended by the amendment regulations, continues to apply to waste disposed of at a disposal facility until 1 July 2021 as if the amendment regulations had not been made.
- (2) In this clause, **amendment regulations** means the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021.

Schedule 1AA clause 1: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

2 When new levy rates apply

The levy rates in Schedule 2 apply—

- (a) to a construction and demolition fill disposal facility: class 2 on and from 1 July 2022;
- (b) to a managed or controlled fill disposal facility: classes 3 and 4 on and from 1 July 2023;
- (c) to a municipal disposal facility: class 1 on and from 1 July 2021.

Schedule 1AA clause 2: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

3 Municipal disposal facility: class 1

An operator of a municipal disposal facility: class 1 must comply with regulations 6, 8, 11 to 14, and 34 to 37 on and from 13 May 2021.

Schedule 1AA clause 3: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

4 Construction and demolition fill disposal facility: class 2

An operator of a construction and demolition fill disposal facility: class 2 must comply with regulations 6, 8, 11 to 14, and 34 to 37 on and from 1 January 2022.

Schedule 1AA clause 4: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

5 Managed or controlled fill disposal facility: classes 3 and 4

An operator of a managed or controlled fill disposal facility: classes 3 and 4 must—

- (a) provide the levy collector with the information described in regulation 6(4)(a) to (c) on and from 1 July 2022; and
- (b) comply with regulations 6, 8, 11 to 14, and 34 to 37 on and from 1 January 2023.

Schedule 1AA clause 5: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

6 Certain facilities may seek approval to provide 6-monthly return for specified period

- (1) This clause applies to—
 - (a) a construction and demolition fill disposal facility: class 2, if its expected net tonnage for 1 January 2022 to 30 June 2022 (the **applicable period**) is 500 tonnes or less;
 - (b) a managed or controlled fill disposal facility: classes 3 and 4, if its expected net tonnage for 1 January 2023 to 30 June 2023 (the **applicable period**) is 500 tonnes or less.
- (2) The operator of a facility to which this clause applies—
 - (a) may, in writing, request from the levy collector approval to provide a return for the applicable period; and
 - (b) if approval is given, is not required to provide a monthly return (under regulation 6) for each month of that period.
- (3) The operator must—
 - (a) make the request on or before 20 January of the applicable period; and
 - (b) include in the request—
 - (i) the expected net tonnage of the facility for the applicable period; and
 - (ii) evidence of how the operator has determined the expected net tonnage.
- (4) The levy collector must consider the request on receiving it.

- (5) The levy collector may, if satisfied that the expected net tonnage of the facility for the applicable period is 500 tonnes or less,—
- (a) approve the request; and
 - (b) determine the expected net tonnage of the facility for the applicable period.
- (6) The levy collector must, on or before 1 February of the applicable period,—
- (a) give written notice of the levy collector's decision to the operator; and
 - (b) if approval is given, specify the expected net tonnage of the facility as determined by the levy collector.
- (7) If approval is given, the return is due on or before 20 July after the end of the applicable period.
- (8) The return must specify the following information for the applicable period:
- (a) the name of the facility and its type; and
 - (b) the physical address and site number (if applicable) of the facility; and
 - (c) the full name, contact details, and client number (if applicable) of the operator; and
 - (d) the full name and contact details of the person who prepared the return (unless it was the operator); and
 - (e) the dates on which the applicable period started and ended; and
 - (f) the gross tonnage for the applicable period (measured under regulations 11 and 12); and
 - (g) the diverted tonnage for the applicable period (measured under regulations 11 and 13); and
 - (h) the net tonnage for the applicable period (calculated under regulation 16).

Schedule 1AA clause 6: inserted, on 13 May 2021, by regulation 12 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Schedule 1

Conversion factors for volume-to-weight calculations

r 14(4)

Type of waste or diverted material	Description of waste or diverted material	Conversion factor
Waste or material in rubbish bags or carried in cars	Small loads (0.5 cubic metres or less) of uncompact general waste or material, including bags of domestic and commercial refuse <i>or</i> Waste, or material, for diversion that is similar in density to loose and uncompact recyclable containers, such as cans and plastic bottles	0.130 tonnes (130 kg)/cubic metre

Type of waste or diverted material	Description of waste or diverted material	Conversion factor
Uncompacted general waste or material	Larger loads (more than 0.5 cubic metres) of uncompacted waste or material from residential, commercial, industrial, construction and demolition (excluding cleanfill), and landscaping activities <i>or</i> Waste, or material, for diversion that is similar in density to timber or uncompacted cardboard and paper	0.200 tonnes (200 kg)/cubic metre
Compacted waste or material	Waste or material carried in a compacted state (including in kerbside collection compactors, stationary compactors, and front-end loaders) and compacted bulk waste or material from transfer stations <i>or</i> Waste, or material, for diversion that is similar in density to whole glass bottles and loose light-gauge scrap metal	0.320 tonnes (320 kg)/cubic metre
High-density waste or material	Waste or material composed of materials with a specific gravity greater than 1.0 (for example, concrete and masonry rubble, clay, soil, slags, sludges (including biosolids), ash, foundry sand, pomace (fruit pulp), and abattoir waste) <i>or</i> Waste, or material, for diversion that is similar in density to crushed glass	1.500 tonnes (1 500 kg)/cubic metre

Schedule 2 Levy rate

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Schedule 2: inserted, on 13 May 2021, by regulation 13 of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68).

Prescribed disposal facility	Levy rate for period of 1 July 2021 to 30 June 2022 (\$ per tonne)	Levy rate for period of 1 July 2022 to 30 June 2023 (\$ per tonne)	Levy rate for period of 1 July 2023 to 30 June 2024 (\$ per tonne)	Levy rate on and from 1 July 2024 (\$ per tonne)
Construction and demolition fill disposal facility: class 2		20	20	30
Managed or controlled fill disposal facility: classes 3 and 4			10	10
Municipal disposal facility: class 1	20	30	50	60

Michael Webster,
for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 21 May 2009.

Reprints notes

1 *General*

This is a reprint of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 (LI 2021/68)

Contract and Commercial Law Act 2017 (2017 No 5): section 347