

Version
as at 14 December 2021



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

Patsy Reddy, Governor-General

Order in Council

At Wellington this 12th day of April 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 41 of the Waste Minimisation Act 2008—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for the Environment made in accordance with section 41(2) of that Act.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These regulations are administered by the Ministry for the Environment.

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Regulations

1 Title

These regulations are the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021.

2 Commencement

These regulations come into force on 13 May 2021.

Regulations: confirmed, on 14 December 2021, by section 14 of the Subordinate Legislation Confirmation Act 2021 (2021 No 56).

3 Principal regulations

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

4 Regulation 3 amended (Interpretation)

(1) In regulation 3(1), insert in their appropriate alphabetical order:

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

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

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

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)

- (2) In regulation 3(1), replace the definition of **disposal facility** with:

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

5 New regulations 3A and 3B inserted

After regulation 3, insert:

3A Transitional, savings, and related provisions

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

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.

6 Regulation 5 replaced (Rate of levy)

Replace regulation 5 with:

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.

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

- (1) After regulation 6(2), insert:
- (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.
- (2) Replace regulation 6(4)(a) with:
 - (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:

8 Regulation 7 amended (Operator of approved facility must provide annual return)

- (1) After regulation 7(2), insert:
- (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.
- (2) Replace regulation 7(3)(a) with:
 - (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:

9 Regulation 11 amended (Gross tonnage and diverted tonnage must be measured)

- (1) In regulation 11(2), replace “subclauses (3) and (4)” with “subclause (4)”.
- (2) Revoke regulation 11(3).

10 Regulation 15 amended (Request for approval of average tonnage system)

In regulation 15(2)(b), replace “and NA (light goods vehicles)” with “NA (light goods vehicles), NB (medium goods vehicles), and NC (heavy goods vehicles)”.

11 New regulation 33A inserted (Net tonnage when levy rate changes or first applies)

After regulation 33, insert:

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.

12 New Schedule 1AA inserted

Insert the Schedule 1AA set out in Schedule 1 of these regulations as the first schedule to appear after the last regulation of the principal regulations.

13 New Schedule 2 inserted

After the Schedule, insert as Schedule 2 the schedule set out in Schedule 2 of these regulations.

Schedule 1
New Schedule 1AA inserted

r 12

Schedule 1AA
Transitional, savings, and related provisions

r 3A

Part 1

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

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.

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.

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.

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.

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.
- 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 2

New Schedule 2 inserted

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Schedule 2				
Levy rate				
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

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Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 13 May 2021, amend the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Regulations 2009.

These regulations prescribe new classes of disposal facilities and the rate of levy that is payable on the amount of waste disposed of at each class of disposal facility.

The new levy rates apply—

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

However, the rate of levy that applies before these regulations come into force will continue to apply to applicable disposal facilities until 1 July 2021.

These regulations also require prescribed disposal facilities to comply with specified record-keeping and reporting requirements before their levy obligations take effect.

These regulations are a confirmable instrument under section 47B of the Legislation Act 2012. They are revoked at the close of 30 June 2022, unless earlier confirmed by an Act of Parliament. That stated time is the applicable deadline under section 47C(1)(a) of that Act.

Regulatory impact statement

The Ministry for the Environment produced a regulatory impact statement in May 2020 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.mfe.govt.nz/sites/default/files/media/Legislation/RIS/regulatory-impact-statement-waste-disposal-levy.pdf>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 15 April 2021.

Notes

1 *General*

This is a consolidation of the Waste Minimisation (Calculation and Payment of Waste Disposal Levy) Amendment Regulations 2021 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Subordinate Legislation Confirmation Act 2021 (2021 No 56): section 14