

The Landfill Allowance Scheme (Northern Ireland) Regulations 2004

Monitoring Guidance for District Councils

Version 4
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1 Introduction

This guidance has been prepared by the Northern Ireland Environment Agency (NIEA) to inform district councils, and those providing services to the district councils, on how the Landfill Allowances Scheme (Northern Ireland) Regulations 2004 (NILAS)¹ will be monitored and how to make returns, as well as practical information on borrowing and transferring allowances. The Monitoring Authority for NILAS is the Head of Waste Management and Contaminated Land of the NIEA, (referred to as NIEA within this document). The Waste Management and Contaminated Land Unit changed its name to Land and Resource Management on 1st April 2006.

The Allocating Authority i.e. the Department of Environment (Planning and Environmental Policy Group), have issued separate guidance clarifying the Allocating Authority's role, certain aspects of the operation of the Scheme and their interpretation of the definition of 'collected municipal waste'.

www.doeni.gov.uk/ni_landfill_allowances_scheme_26-5.pdf

Article 5(2) of the EC Landfill Directive (1999/31/EC)² requires member states to reduce the amount of Biodegradable Municipal Waste (BMW) sent to landfill, setting challenging targets.

The targets for the reduction of BMW landfilled are:

- To reduce by 2010 the quantity of BMW landfilled to 75% of that produced in 1995
- To reduce by 2013 the quantity of BMW landfilled to 50% of that produced in 1995
- To reduce by 2020 the quantity of BMW landfilled to 35% of that produced in 1995

The NILAS Regulations, made under the Waste and Emissions Trading Act 2003 (the WET Act)³, have been designed to ensure that Northern Ireland meets its targets (set out in the Landfill (Scheme Year and Maximum Landfill Amount) Regulations 2004) by allocating progressively more challenging limits on the amount of BMW which can be landfilled by each district council. The allocations for each district council are set by the Allocating Authority (for NI this is the Planning and Environmental Policy Group).

¹ <http://www.opsi.gov.uk/sr/sr2004/20040416.htm>

² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1999:182:0001:0019:EN:PDF>

³ <http://www.opsi.gov.uk/acts/acts2003/20030033.htm>

2 Waste Definitions

2.1 What is Municipal Waste?

The WET Act defines municipal waste as 'household waste or waste that because of its nature or composition is similar to waste from households'.

The NILAS Regulations require district councils to report data for “collected municipal waste”, defined as “municipal waste which comes into the possession or under the control of a district council whether or not the waste comes into possession or under the control of that district council under or by virtue of the Waste Management and Contaminated Land Order 1997”.

2.2 What is Biodegradable Waste?

The Landfill Directive defines biodegradable waste as “waste that is capable of undergoing anaerobic or aerobic decomposition, such as food and garden waste, and paper and paperboard”.

The Schedule to the NILAS Regulations defines paper, card, putrescible waste and vegetable oil as being 100% biodegradable. Footwear, furniture and textiles are regarded as being 50% biodegradable in the regulations.

3 Managing Allowances

3.1 How much Biodegradable Municipal Waste can be sent to landfill?

The Landfill Directive sets challenging targets, for member states to divert BMW away from landfill. The total quantity (by weight) of BMW that Northern Ireland can send to landfill under the Directive has been determined by data submitted to EUROSTAT for waste arisings in 1995. The total municipal waste produced in Northern Ireland in 1995 was 890,000 tonnes.

The weights for each target year are based on the assumption that 71% of all MSW arisings in Northern Ireland is biodegradable. [Source: NI Waste Characterisation Study 2000] The maximum weight of BMW that can be sent to landfill in Northern Ireland, in each scheme year shall be in accordance with Table 3.1

Table 3.1: Maximum BMW to Landfill

Target Year ending in	Maximum Amount (in tonnes)
1995 (Base Year)	631,900 (BMW landfilled)
2010	470,000
2013	320,000
2020	220,000

The quantity of BMW each district council can landfill in each scheme year is determined by their allocation of landfill allowances. One allowance is equal to one tonne of BMW which can be sent to landfill. This means an allocation of 1000 landfill allowances permits up to 1000 tonnes of BMW to be sent to landfill.

Landfill allowances have been allocated to each district council for each scheme year, up until 2020.

3.2 Borrowing of Landfill Allowances (Regulation 6)

A district council may borrow allowances for use in a scheme year up to 5% of its available landfill allowances for the following scheme year (rounded to the nearest whole allowance). However, borrowing cannot take place in a target year or where the following year is a target year.

Table 3.2 below summarises the scheme years in which borrowing is permitted. Target years are shown shaded.

Table 3.2: Permitted Borrowing Summary

Scheme Year	2005/06	2006/07	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Borrowing permitted	✓	✓	✓	X	X	✓	X	X	✓	✓	✓	✓	✓	X	X

For a district council to borrow allowances, a 'Request to Borrow Landfill Allowances Form (NILAS 002)' must be completed and submitted to NIEA. NIEA will not consider a borrowing request unless it is made on this form.

The form is available on the NIEA web site at

www.ni-environment.gov.uk/nilas002.pdf

Following submission, NIEA will ensure that:

- the borrowing request is not in a target year or the following year is not a target year;
- the number of landfill allowances are available to the district council for the following scheme year;
- accepting the borrowing request would not cause the district council to exceed the limit on borrowing;
- the district council is not suspended from borrowing landfill allowances.

When NIEA is satisfied that the conditions above are met, the landfill allowances register will be updated with the borrowing transaction as requested. The Monitoring Authority will then notify the district council that the transaction has been completed.

3.3 Transferring of Landfill Allowances ***(Regulation 7)***

A district council may transfer to another district council landfill allowances which are available to it for the scheme year and which have not been utilised. However, allowances can only be transferred within the same scheme year.

For a district council to transfer allowances (the transferor) to another district council (the transferee), a 'Request to Transfer Landfill Allowances Form (NILAS 003)' must be completed and submitted to NIEA by the transferor. NIEA will not consider a transfer request unless it is made on an 'NILAS 003' form.

The form is available on the NIEA web site at
www.ni-environment.gov.uk/nilas003.pdf

The transfer request must be made to NIEA before the end of the reconciliation period (period of 6 months following the end of a scheme year) for the scheme year in which the transfer relates to.

Following submission NIEA will ensure that:

- a. the number of landfill allowances are available to the district council for a scheme year and have not been utilised;
- b. transfer of allowances from any scheme year is to the same scheme year;
- c. district councils involved in the transfer are not suspended from transferring landfill allowances.

When NIEA is satisfied that the conditions above are met, the landfill allowances register will be updated with the transfer transaction as requested. NIEA will then notify each of the two district councils involved that the transaction has been completed.

4 The Landfill Allowances Register

Under the NILAS Regulations, NIEA must maintain a landfill allowances register. The register will record allowances allocated, borrowed or transferred by all district councils.

The register contains a landfill allowance account for each district council and will record the required information on all transactions, such as borrowing or transferring allowances, for each scheme year. Figure 4.1 shows a screen shot of the main page in the register.

The data contained for each scheme year is published on the NIEA website after the issue of the final reconciliations to district councils:

www.ni-environment.gov.uk/other-index/content-databases/content-databases-landfillallowances.htm

Figure 4.1: Landfill Allowances Register Screen

Landfill Allowances Register – Main
Environment and Heritage Service

Landfill Allowances Register

District Council:

Year:

1 Allowance = 1 Tonne

Account Suspended

Comments:

Utilisation of Landfill Allowances

Current Allowance	<input type="text" value="18388"/>	Allowances Utilised	<input type="text" value="0"/>
BMW to landfill for scheme year (Tonnes)	<input type="text" value="0"/>	Allowances not used	<input type="text" value="18388"/>
No. of Allowances required	<input type="text" value="0"/>	Allowances exceeded (Tonnes of BMW)	<input type="text" value=""/>

Transaction Information:

Date Created	Reference Number	Allocation	Transfers	Borrowing	Alt	Year From	Year To	Other DC	Allowance Balance:
17/05/2005 12:10:17	MILAS-###-05/06-5001	17288							17288
20/05/2005 12:10:17	MILAS-###-05/06-8001		100			2006/07	2005/06		17388
21/05/2005 12:10:17	MILAS-###-05/06-T001		1000					Other District Council	18388
Totals									18388

5 Keeping Records and Making Returns

5.1 What records must district councils keep?

For each scheme year, a district council MUST keep records containing the following information:

- a) the weight in tonnes of collected municipal waste;
- b) the weight in tonnes of municipal waste sent to landfills by the district council;
- c) the weight in tonnes of municipal waste sent to waste facilities whether by or on behalf of, the district council;

In relation to municipal waste mentioned above the records must contain details of:

- d) the total weight in tonnes of waste sent to each landfill or waste facility;
- e) the standard description of, and the appropriate code in the European Waste Catalogue for, the waste referred to in a).

All weights must be rounded up to the nearest tonne.

5.2 For how long must records be kept?

These records must be kept for 2 years after the reconciliation period for each scheme year.

5.3 What information must a return contain?

A district council MUST submit a return to NIEA containing the following information:

- a) the weight in tonnes of collected municipal waste;
- b) the weight in tonnes of municipal waste sent to landfills by the district council;
- c) the weight in tonnes of municipal waste sent to waste facilities whether by or on behalf of, the district council.

5.4 How does a district council make a return?

The return MUST be made via the WasteDataFlow national on-line database.

www.wastedataflow.org

5.5 When must returns be submitted?

For every scheme year, the returns MUST be submitted for each 3 month period (quarter) within 2 months after the quarter end. The dates by which returns must be submitted to the Monitoring Authority are shown in the Table 5.1.

Table 5.1: Return Submission Dates

Quarter	Period in scheme year	Return MUST be submitted by:
1	1 st April – 30 th June	31 st August
2	1 st July – 30 th September	30 th November
3	1 st October – 31 st December	28 th February
4	1 st January – 31 st March	31 st May

5.6 Final Destination Information

The NILAS Regulations require records to be kept of the tonnage of waste going to each waste facility, defined as ‘a facility for the disposal or recovery of waste other than a landfill’. A waste facility will, therefore, be the final destination of the waste (e.g. re-processor, landfill). A Materials Recovery Facility (MRF), which only sorts materials for recycling, is not the final destination of the waste.

Provision for recording this information has been provided on WasteDataFlow question 19, which asks ‘*What is the final destination of your materials sent for recycling?*’ The **final destination** of all waste sent for recovery must be entered here.

NIEA recognises the difficulties encountered in obtaining information from final destination re-processors. However, under the NILAS Regulations, there is a statutory requirement for this information to be recorded by district councils. District councils MUST know and report the **final** destination of their waste streams. Consequently, confirmation of recovery can only be obtained at the final destination.

It should also be noted: District councils are responsible for ensuring the facilities accepting their waste are either appropriately licensed to accept such waste streams OR hold a current exemption to accept the waste.

The database within WasteDataFlow contains details of all licensed facilities within the UK. This database can be searched using name of facility, licence number etc. in the search criteria. Facilities located within Northern Ireland can be cross referenced with NIEA's public register on the website:

(www.ni-environment.gov.uk/waste/public_reg/waste-management-licensing.htm)

The national database is updated on a regular basis by the respective environment agencies in the UK.

5.7 What if a district council fails to make a return?

Failure to make a return will breach regulation 10, resulting in a district council becoming liable to a penalty, under section 12(3) of the WET Act 2003, of £1000 for each requirement imposed on the district council by regulation 10 with which the district council fails to comply.

5.8 Landfill Operator Obligations

Obligations for landfill operators under the Landfill Allowance Scheme (Northern Ireland) Regulations 2004 are included in separate guidance – 'Guidance for Landfill Operators'.

This guidance is available on the NIEA web site at:

www.ni-environment.gov.uk/guidanceforlandfilloperators.pdf

A failure to comply with Regulation 11 will cause a landfill operator to commit an offence under section 13 of The Waste and Emissions Act 2003. Penalties available under this Act include conviction on indictment of up to two years, or to a fine, or to both; and on summary conviction to a fine not exceeding level 5 on the standard scale.

6 Data Validation and Reconciliation

6.1 WasteDataFlow Validation

District councils must ensure data is as accurate and complete as possible before submitting. NIEA will check the data and look for any anomalous data or omissions, seeking further clarification or amendment where required. The validation of data will be conducted through the use of electronic query forms and WasteDataFlow.

NIEA will validate data within one month of the relevant deadline. To facilitate this, all data queries on data must be answered accurately and completely and within 5 working days. When a query requires data amendments, the updated data must also be re-submitted to NIEA within the 5 working days.

6.2 Data Audits

The Monitoring Authority will undertake audits, on a regular basis of the required and relevant waste documentation, to ensure the overall validity of the data and to check the final destination of waste streams.

If a district council wants to claim diversion from landfill, they must be able to state the precise destination of any waste sent for recovery, whether this be in the UK or abroad.

6.3 Will NIEA update district councils during a scheme year on their progress?

NIEA will provide a 6 monthly report to each district council and the Waste Management Groups. This 6 monthly report will detail how much BMW each district council has sent to landfill. The report for the 6 monthly period April – September, will be published the following January. A copy of these reports will also be provided to the Allocating Authority.

Each district council is able to generate the BMW to landfill figure for each quarter using the summary spreadsheet function in WasteDataFlow. NIEA publishes the BMW to landfill figures quarterly on the NIEA website:

www.ni-environment.gov.uk/waste/municipal_data_reporting.htm

6.4 What will happen at the end of a scheme year?

No later than 5 months after the end of a scheme year, NIEA will calculate the amount of BMW sent to landfill by each district council for the scheme year and prepare a draft reconciliation. NIEA will notify each district council of the calculation and the draft reconciliation.

As soon as reasonably practicable after the end of the reconciliation period (6 months following the end of a scheme year), NIEA will reconcile the allowances available to each district council and will then inform the Allocating Authority of the status of each district council's landfill allowance account.

7 Calculating the Quantity of BMW Sent to Landfill

7.1 How is the BMW sent to Landfill calculated?

The methodology for calculating the amount of BMW sent to landfill is a Mass Balance Calculation. The framework for the calculation methodology is set out in regulations 12 and 13 of the NILAS Regulations and the data for the calculation will be taken from the quarterly returns, made via WasteDataFlow.

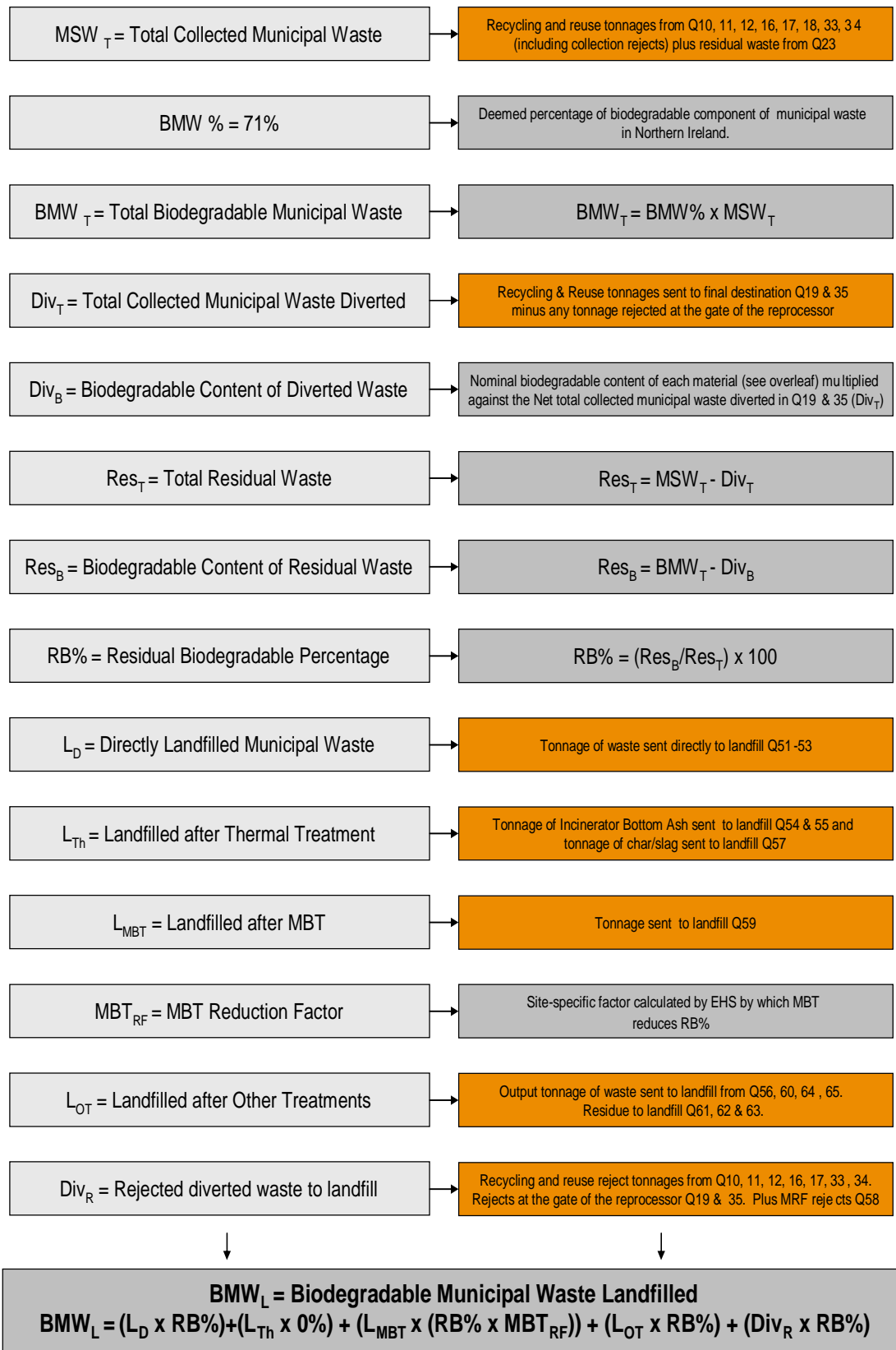
The first stage of the calculation is to calculate the total amount of BMW in collected municipal waste. The mass balance assumes that the component of collected municipal waste that is biodegradable is constant and that the amount of biodegradable waste in the total municipal waste arisings is 71% by weight. [Source: NI Waste Characterisation Study 2000]. Rubble is taken off the MSW arisings prior to the application of the 71% BMW factor as it not considered to be municipal waste, but rather commercial and industrial waste.

The second stage is to calculate the amount of BMW which has been diverted from landfill. Each district council needs to know exactly what is happening to their waste. They have a duty to ensure that it is dealt with properly. If a district council wants to claim diversion from landfill, they must be able to state the precise destination of any waste sent for recovery, whether this be in the UK or abroad.

For each scheme year:

The Monitoring Authority will calculate the amount of BMW sent to landfill using the following equation:

WasteDataFlow Method of calculating Mass Balance from WasteDataFlow for a NI District Council





Percentage biodegradability of separated fractions of MSW – as appears in the Landfill Allowances Scheme (Northern Ireland) Regulations 2004

Type of waste	Amount of biodegradable municipal waste (percentage by weight)
Paper and Card	100%
Putrescible waste	100%
Vegetable oil	100%
Footwear	50%
Furniture	50%
Textiles	50%
Mineral oil	0%
Electrical and electronic equipment	0%
End-of-life vehicles	0%
Glass	0%
Inert construction and demolition waste	0%
Metal	0%
Plastic	0%
Soil	0%

Explanation of Terms:

- MSW** **Municipal Solid Waste**
- BMW** **Biodegradable Municipal Solid Waste**
- MBT** **Mechanical Biological Treatment**
- MRF** **Material Recycling Facility**
- MBT_{RF}** **Mechanical Biological Treatment Reduction Factor is the % the MB T process reduces the biodegradability of the Municipal Solid Waste by**
- Net Total** **Tonnage of material sent for recycling/reuse minus any rejects**

The calculation is automatically calculated on a quarterly basis by the WasteDataFlow system. Any district council can generate a summary report which will calculate the BMW landfilled, once the data on WasteDataFlow has been rolled up to level 10.

However, until the data has been fully validated and a final reconciliation issued, the amount of calculated BMW landfilled may be subject to change i.e. if through auditing errors in reported data are detected.

To calculate the total amount of BMW landfilled in any scheme year, NIEA will add the calculated BMW landfilled for each of the four quarters.

E.g. Total calculated BMW landfilled in 2006/07

= total calculated BMW landfilled in Quarter1 (April –Jun 06)
+ Total calculated BMW landfilled in Quarter2 (July -Sept 06)
+ Total calculated BMW landfilled in Quarter1 (Oct - Dec 06)
+ Total calculated BMW landfilled in Quarter1 (Jan – Mar 07)

7.2 Determining When BMW Will be Considered Diverted from Landfill

Any waste sent to a waste facility to be recovered should be counted as diverted at the point at which it enters the facility. However, district councils must have adequate systems in place to be able to confirm that the material is recovered. Any recovered material subsequently found to have been disposed off must be reported to the Monitoring Authority immediately; any such material will be removed from a district council's recovery figure.

All waste applied as daily cover is considered to be disposal by NIEA; only municipal waste used in this manner will count against allowances.

However, municipal waste collected and treated cannot then become non-municipal waste for the purposes of depositing it as intermediate (daily) cover on a landfill.

7.3 Rejected Material

Waste collected for recovery but rejected must be recorded as having been rejected in the appropriate processing question (WDF Qs 58, 63).

7.4 Compost

Guidance on the use of compost is provided in the following NIEA document:
'Guidance on the Composting of Waste' which can be found on the NIEA web site:
www.ni-environment.gov.uk/composting_guidance-2.pdf

Any compost or MBT outputs which have an authorised end use, other than disposal, will be considered diverted from landfill.

7.5 Review of BMW Proportion of MSW

NIEA will keep the BMW proportion of MSW under review as required under NILAS regulation 9(2).

7.6 Home Composting

Currently, the amount of municipal waste diverted from landfill through home composting cannot be reliably quantified. Therefore, district councils cannot count waste going to home composting as diverted. However, BMW composted by households on their domestic premises is beneficial as it will not be counted in waste arisings figures.

WRAP are currently developing a model for the UK to quantify the amount of garden / other organic waste being diverted from landfill through home composting and to identify factors affecting both the rate and quantity of participation. On completion, DEFRA will liaise with devolved administrations to consider including the diversion from landfill through home composting in the mass balance calculation.

NOTES

“Waste Facility” means a facility for the disposal or recovery of waste other than a landfill.

Part1, Paragraph 2 – Landfill Allowance Scheme Regulations 2004

“Our aim is to protect and conserve the natural and built environment and to promote its appreciation for the benefit of present and future generations.”