EXPLANATORY MEMORANDUM TO

THE LANDFILL TAX (AMENDMENT) REGULATIONS 2011

2011 No. 894

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 The Regulations change the maximum credit that landfill site operators may claim against their annual landfill tax liability when making contributions in respect of the Landfill Communities Fund ("LCF").

3. Matters of special interest to the Select Committee on Statutory Instruments

3.1 It has been necessary to breach the "21 day rule". This is because the amendments made by the Regulations are a Budget measure. It was not possible to lay the instrument until after the changes were announced on Budget day.

3.2 The amendment made by regulation 2 changes the maximum percentage of credit that landfill site operators may claim against their landfill tax liability during the contribution year 2011-12, from 5.5 per cent to 6.2 per cent. Paragraph 7.2 explains how this change increases the maximum value of the fund in line with inflation in 2011-12 to give the credit claimable a potential value of £78.1 million. The contribution year is a standard period for all landfill site operators which runs from 1 April to 31 March each year. It is necessary for the amendment made by regulation 2 to come into force on 1 April to coincide with the start of the contribution year.

4. Legislative Context

4.1 Landfill tax was established by section 39 of the Finance Act 1996 and is chargeable on the disposal of waste made by way of landfill at a landfill site. Section 51 of that Act provides a regulation making power whereby persons liable to pay landfill tax are entitled to credit against their liability to the tax. Credit is established in accordance with prescribed rules. Section 53(1) provides for regulations to be made for securing an entitlement to credit if those persons pay sums to an environmental body and other prescribed conditions are fulfilled.

4.2 The Landfill Tax Regulations 1996 (SI 1996/1527), the principal Regulations, were made under various powers in Finance Act 1996 including sections 51 and 53. Regulations 30 to 36 deal with the LCF and regulation 31 sets out the maximum percentage of credit that landfill site operators may claim against their landfill tax liability during the contribution year.

4.3 Paragraph 3.2 above describes the amendment that is made to the principal Regulations.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

7.1 The LCF redresses some of the environmental costs of landfill by improving the environment in the vicinity of landfill sites. Projects benefiting from LCF funding include those that are involved with the reclaiming of land, improvements to local community facilities, repairs to places of worship and habitat creation in support of biodiversity.

7.2 The Government recognises the important contribution made by the LCF. The amendment made by regulation 2 increases the maximum value of the fund in line with inflation in 2011-12 to give a potential value of £78.1 million credit claimable. The maximum value of the fund is managed by adjusting the capping percentage figure in relation to expected landfill tax liability during the contribution year.

- ***Consolidation***

7.3 This instrument amends the principal regulations. As the capping percentage figure is reviewed every year, there are no plans for consolidation.

8. Consultation outcome

8.1 The value of the LCF is reviewed each year so no consultation is required.

9. Guidance

9.1 The change will be announced via a mail shot to all landfill site operators, and through updating the relevant landfill tax public notice. It will

also be publicised on HMRC's website and that of the regulator of the LCF, ENTRUST.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible, although there may be a slight growth stimulus and some benefit to the third sector from increased spending by environmental bodies.

10.2 There is no impact on the public sector.

10.3 In line with government commitments, a Tax Information and Impact Note has not been prepared for this instrument as it gives effect to previously announced policy and it relates to routine changes to rates to a predetermined indexation formula.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is a general tax provision and the same for all firms.

11.3 The basis for the final decision on what action to take to assist small business is that the impact on small business is negligible.

12. Monitoring & review

12.1 The effect of this regulatory change will be monitored and reviewed as part of HM Revenue and Customs' normal assurance activities.

13. Contact

Leonne Jackson at HM Revenue & Customs (Tel: 0161 827 0323 or email: Leonne.Jackson@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.