EXPLANATORY MEMORANDUM TO

THE LANDFILL TAX (AMENDMENT) REGULATIONS 2013

2013 No. 658

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) 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 The laying of the instrument before the House of Commons at Budget breaches the "21 day rule". This is because the Regulations implement measures announced as part of Budget 2013. It was not possible to lay the instrument until after the changes were announced on Budget day.

3.2 The amendment made by regulation 3 maintains the maximum percentage credit that landfill site operators may claim against their landfill tax liability set out in the Landfill Tax Regulations 1996 (SI 1996/1527) ("the principal Regulations") during the contribution year 2013-14, from 5.6 to 6.8 per cent. Paragraph 7.2 below explains how this change maintains the maximum value of the fund in 2013-14 at a potential value of £78.1 million credit claimable. 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 3 to come into force on 1 April to coincide with the start of the contribution year. Consequently, it was not possible to lay this instrument before the House of Commons 21 days before commencement.

3.3 The principal Regulations exclude a person who is disqualified from being a charity trustee or a trustee of a charity by virtue of section 72 of the Charities Act 1993 from controlling an environmental body[1]. This Act has been replaced by the Charities Act 2011. Regulation 4 of these regulations amends regulation 33 (1B) (c) of the principal Regulations to update the reference to charities' legislation and has no other legal effect.

[1] An environmental body is a not for profit organisation registered with ENTRUST the regulator of the landfill communities fund (LCF) to receive landfill tax money from a landfill site operator to spend on environmental projects approved in regulation.

4. Legislative context

4.1 Landfill tax was introduced 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 principal Regulations were made under various powers in Finance Act 1996 including sections 51 and 53, which are relevant to the LCF. 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 Paragraphs 3.2 and 3.3 above describe the amendments that are made to the principal Regulations by these 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 3 maintains the maximum value of the fund in 2013-14 at 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.

7.3 Regulation 4 of these regulations updates the principal Regulations to reflect the change to the charities' legislation outlined in paragraph 3.3 above.

- **Consolidation**

7.4 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 is being published via a briefing posted to all landfill site operators, through updating the relevant landfill tax public notice and by inclusion on HMRC's website and that of the LCF's regulator, ENTRUST.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

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

13.1 Leonne Jackson at HM Revenue and Customs Tel: 0161 827 0323 can answer any queries regarding the instrument.