# EXPLANATORY MEMORANDUM TO

# THE LANDFILL TAX (AMENDMENT) REGULATIONS 2015

# 2015 No. 744

**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 amend the Landfill Tax Regulations 1996 (SI 1996/1527) (the principal Regulations) to 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 2015; and it was not possible to lay the instrument until after the changes were announced on Budget day.

3.2 These regulations amend regulation 31(3) of the Landfill Tax Regulations 1996 (SI 1996/1527) ("LFTR") which specifies the maximum amount of credit (expressed as a percentage of their total liability) which landfill site operators may claim against their landfill tax liability, in any "contribution year". Regulation 31 LFTR further defines a contribution year as being a period of 12 months beginning on 1 April.

3.3 Due to the nature of the legislation which these regulations are amending it is necessary for those amendments to come into force on 1 April 2015 to coincide with the start of the new contribution year.

## 4. Legislative context

4.1 Landfill tax was introduced by section 39 of the Finance Act 1996 (FA 1996) and is chargeable on the disposal of waste made by way of landfill at a landfill site. Section 51 of FA 1996 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) of FA 1996 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 LFTR were made pursuant to various powers in FA 1996; although it is the powers given by sections 51 and 53 FA 1996, which are relevant to the LCF. Regulations 30 to 36 LFTR provide for the LCF and regulation 31 sets out the maximum percentage of credit that landfill site operators may claim against their landfill tax liability during a particular contribution year.

4.3 Regulation 3 of these regulations amends regulation 31(3) LFTR to vary the maximum percentage contribution for which a landfill operator may claim credit in the contribution year 2015-2016 from 5.1% to 5.7%.

## 5. Territorial extent and application

5.1 Following devolution of landfill tax to Scotland provided for by sections 30 and 31 of the Scotland Act 2012, which take effect on 1 April 2015, this instrument will apply to England, Northern Ireland and Wales.

## 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 incentivising landfill operators to make contributions to bodies carrying out work aimed at improving the environment in the vicinity of landfill sites, for example, reclaiming of land, improvements to local community facilities, repairs to places of worship and habitat creation in support of biodiversity.

7.2 In Budget 2015 the Government announced the value of the LCF in 2015-16 at £59.4m. The amendment made by regulation 3 in the regulations amends the value of the fund in 2015-16 to a maximum tax credit claimable of £59.4 million. This maximum tax credit claimable 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 is being published via a briefing posted to all landfill site operators, through updating the relevant landfill tax public notice and by inclusion on the gov.uk 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 HMRC's normal assurance activities.

## 13. Contact

Daniel Taylor at HMRC, (tel: 03000 585973, email Daniel.taylor@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.