EXPLANATORY MEMORANDUM TO

THE LANDFILL TAX (QUALIFYING FINES) ORDER 2015

2015 No. 845

1. This explanatory memorandum has been prepared by HM Revenue & Customs ("HMRC") and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

This Order makes provision for the introduction of a Loss on Ignition test to help identify the correct landfill tax liability of waste fines - the smaller fractions of waste produced by any waste treatment process that includes an element of mechanical treatment. It comes into force on 1 April 2015.

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

None.

4. Legislative Context

4.1 The primary legislation for landfill tax is contained in sections 39-71 of, and Schedule 5 to, the Finance Act 1996. This Order is made under sections 42 and 63.

4.2 The Landfill Tax (Qualifying Material) Order 2011 (SI 2011/1017) details those waste materials that are subject to the lower rate of landfill tax when disposed of in landfill sites. The new Order sets out the requirements for the lower rating of waste fines which consist of qualifying material plus an incidental amount of non-qualifying material.

5. Territorial Extent and Application

This instrument applies to England, Wales and Northern Ireland.

6. European Convention on Human Rights

As the instrument does not amend primary legislation, no statement is required.

7. Policy background

7.1 The government announced in Autumn Statement 2014 that the UK would introduce a Loss on Ignition test in respect of waste fines that are sent to landfill.

7.2 The new test will help landfill site operators who are responsible for accounting for landfill tax to identify the correct liability of waste fines.

8. Consultation outcome

Formal consultation was carried out during summer 2014 on the proposals for how the testing system will operate. The proposals set out in the consultation paper were refined through further discussion with a government-industry working group and the government issued its response to the comments made alongside the Autumn Statement 2014, along with a summary of the responses received. Draft primary legislation was published shortly after Autumn Statement 2014 and draft secondary legislation was published in February 2015 along with draft HMRC guidance.

9. Guidance

HMRC guidance will be updated to include details of HMRC's requirements for the methodology and frequency of testing and the other evidence and checks that are required in order to ensure that only waste fines that qualify for the lower rate of the tax are charged at that rate.

10. Impact

10.1 The changes will have limited impact on business and no impact is foreseen on charities or voluntary bodies.

10.2 The changes will have limited impact on the public sector.

11. Regulating small business

The legislation will apply to a very small number of small businesses.

12. Monitoring & review

HMRC will monitor the impact of the change through information collected from the joint industry-government working group, made up of industry representatives.

13. Contact

Phil Sears at HMRC Tel: 03000 585502 or email: phil.sears@hmrc.gsi.gov.uk can answer any queries regarding the instrument.