EXPLANATORY MEMORANDUM TO

THE LANDFILL TAX (QUALIFYING MATERIAL) ORDER 2011

2011 No. 1017

1. 1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument replaces the lists of qualifying material subject to the lower rate of landfill tax with a new list. It brings the qualifying material included within the lower rate into line with new criteria for lower rating provided for under section 42 of the Finance Act 1996 (as amended by Finance (No 3) Act 2010).

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

3.1 None.

4. Legislative context

4.1 The Order is made under section 42(3) of the Finance Act 1996. It comes into force on 1st April 2011 and has effect for disposals of qualifying material made or treated as made on or after that day. It revokes the Landfill Tax (Qualifying Material) Order 1996. In making this Order, the Treasury had regard to the criteria published by the Commissioners under section 42(5) of the Finance Act 1996 and to other factors they considered to be relevant.

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Economic Secretary, Justine Greening, has made the following statement regarding Human Rights:

In my view the provisions of the Landfill Tax (Qualifying Material) Order 2011 are compatible with the Convention rights.

7. Policy background

7.1 The qualifying criteria for the lower rate of landfill tax and the lists of qualifying material that are eligible for it have not been amended since

the introduction of the tax in 1996. The revisions introduced by this instrument arise primarily from the need to reflect changes in wider environmental policy and legislation since 1996, such as the implementation of the European Landfill Directive. In particular, the instrument brings the qualifying material included in the lower rate into line with new criteria for lower rating provided for under section 42 of the Finance Act 1996 (as amended by Finance (No 3) Act 2010).

8. Consultation outcome

8.1 The outcome of Treasury and HMRC's joint 2009 consultation of affected business *("Modernising landfill tax legislation")* supports the changes made by this instrument.

9. Guidance

9.1 General guidance on the landfill tax can be found on the HMRC web site at http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?_nfpb=true&_pageLabel=pageExcise_ShowContent&propertyType=document&id=HMCE_CL_000509.

10. Impact

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

10.2 There will be no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the HMRC website at http://www.hmrc.gov.uk/thelibrary/tinns.htm.

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 described in paragraph 7.1, so no such action is taken for this general tax provision.

12. Monitoring & review

12.1 The nature of the instrument is such that there is no requirement to monitor or review its impact.

13. Contact

13.1 Darren Greedy at HM Revenue & Customs (Tel: 020 7147 0251 / Email: darren.greedy@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.