

Draft Order laid before the Scottish Parliament under section 41(2) of the Landfill Tax (Scotland) Act 2014, for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2015 No.

LANDFILL TAX

The Scottish Landfill Tax (Exemption Certificates) Order 2015

Made - - - - 2015
Coming into force - - 1st April 2015

The Scottish Ministers make the following Order in exercise of the powers conferred by section 11(1) and (2) of the Landfill Tax (Scotland) Act 2014⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 41(2)(a) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

- 1.—(1) This Order may be cited as the Scottish Landfill Tax (Exemption Certificates) Order 2015.
- (2) This Order comes into force on 1st April 2015.

Interpretation

2. In this Order—

“the 1990 Act” means the Environmental Protection Act 1990⁽²⁾;

“exemption certificate” means a certificate issued under article 3(1) of this Order;

“exemption certificate holder” means a person who has been issued with and holds an exemption certificate that is in force;

“SEPA” means the Scottish Environment Protection Agency;

“waste collection authority” means a waste collection authority within the meaning of section 30(3)(c) of the 1990 Act⁽³⁾;

“waste regulation authority” means a waste regulation authority within the meaning of section 30(1)(b) of the 1990 Act⁽⁴⁾.

(1) 2014 asp 2.

(2) 1990 c.43.

(3) The definition in section 30(3)(c) was substituted by the Local Government etc. (Scotland) Act 1994 (c.39), section 180(1), Schedule 13, paragraph 167(3).

(4) The definition in section 30(1)(b) was substituted by the Environment Act 1995 (c.25), Schedule 22, paragraph 62(2). In terms of section 30(1)(b) of the 1990 Act, the waste regulation authority in relation to Scotland is SEPA.

“waste removal powers” means statutory powers to remove illegally or improperly deposited material.

Exemption certificates

- 3.—(1) Revenue Scotland may issue an exemption certificate to—
- (a) a waste regulation authority, insofar as it exercises its waste removal powers under section 59(6) to (9)(5) of the 1990 Act;
 - (b) SEPA, insofar as it exercises its waste removal powers under regulation 57 of the Pollution Prevention and Control (Scotland) Regulations 2012(6);
 - (c) a waste collection authority, insofar as it exercises its waste removal powers under section 59(6) to (9) of the 1990 Act; or
 - (d) any other body or person, insofar as the body or person exercises waste removal powers under any other enactment.
- (2) A disposal is not a taxable disposal if—
- (a) it is made by an exemption certificate holder (or a person on the holder’s behalf); and
 - (b) the disposal is made in accordance with the relevant exemption certificate.

Conditions of exemption certificates

- 4.—(1) An exemption certificate must have set out in it any conditions which Revenue Scotland directs are to be conditions of issue of an exemption certificate.
- (2) Revenue Scotland may under paragraph (1) direct that—
- (a) a particular condition must be included in every exemption certificate; or
 - (b) a particular condition must be included in an exemption certificate of a particular nature or one issued to a particular person.

Statement of tax otherwise due

- 5.—(1) Where a disposal falls within paragraph (2) of article 3, the operator must issue to the person making the disposal a statement in a form to be determined by Revenue Scotland detailing the amount of tax which (but for that paragraph) would be chargeable in respect of the disposal.
- (2) The exemption certificate holder must send a copy of any statement issued under paragraph (1) to Revenue Scotland within such period of receipt of the statement as Revenue Scotland may direct.

St Andrew’s House,
Edinburgh
Date

Name
A member of the Scottish Government

(5) Section 59 was amended by the Regulatory Reform (Scotland) Act 2014 (asp 3), schedule 3, paragraph 11(3).
(6) S.S.I. 2012/360. In terms of regulation 10 of that instrument, SEPA is designated as the competent authority responsible for carrying out the obligations arising from the Industrial Emissions Directive (Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control) (recast)).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order comes into force on 1st April 2015. It provides that exemption certificates may be issued by Revenue Scotland to the Scottish Environment Protection Agency, Scottish local authorities and other bodies who have powers to remove illegally or improperly deposited waste. In terms of the Order, disposals of illegally deposited waste at an authorised landfill site are not chargeable to Scottish landfill tax under the Landfill Tax (Scotland) Act 2014, if made in accordance with an exemption certificate.