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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 157**

**The Landfill Allowances Scheme (Scotland) Regulations 2005**

**PART 2**

**Allocation and the banking, borrowing and transfer of landfill allowances**

**Borrowing of landfill allowances**

7.—(1) Subject to paragraphs (2) and (3), a waste disposal authority may borrow for use in a scheme year (other than the scheme years mentioned in paragraph (3)) up to 5% of the landfill allowances available to it for the following scheme year (rounded down to the nearest whole allowance).

(2) Paragraph (1) does not apply—

- (a) in a target year,
- (b) where the following scheme year is a target year;

(3) In respect of a scheme year which begins on 1st April 2005, 1st April 2006 or 1st April 2007, a waste disposal authority may borrow for use in the relevant scheme year up to 10% of the landfill allowances available to it for the following scheme year (rounded down to the nearest whole allowance).

(4) Where a waste disposal authority intends to borrow a landfill allowance it must submit a borrowing request to the monitoring authority before the end of the reconciliation period for the scheme year.

(5) A borrowing request must—

- (a) be made on the form provided by the monitoring authority;
- (b) specify—
  - (i) the name of the waste disposal authority,
  - (ii) the number of landfill allowances which it intends to borrow.

(6) The monitoring authority is not required to consider a borrowing request unless it is made in accordance with paragraph (5).

(7) If the conditions in paragraph (9) are satisfied the monitoring authority must—

- (a) remove the number of landfill allowances specified in the borrowing request from the part of the waste disposal authority's landfill allowance account relating to the following scheme year;
- (b) include those allowances in the part of the account relating to the scheme year;
- (c) notify the waste disposal authority which made the request—
  - (i) that its request has been accepted,
  - (ii) of the amendments that have been made to its landfill allowance account.

(8) If the conditions in paragraph (9) are not satisfied the monitoring authority must notify the waste disposal authority—

- (a) that its request has not been accepted,
  - (b) of the reasons why.
- (9) The conditions referred to in paragraphs (7) and (8) are that–
- (a) the borrowing request complies with paragraphs (1), (2) or, as the case may be, (3);
  - (b) the number of landfill allowances specified in the request are available to the waste disposal authority for the following scheme year;
  - (c) accepting the borrowing request would not cause the waste disposal authority to exceed the limit on borrowing under paragraph (1) or, as the case may be, paragraph (3); and
  - (d) the authority is not suspended from borrowing landfill allowances under regulation 9.

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**Commencement Information**

**II** Reg. 7 in force at 1.4.2005, see [reg. 1\(2\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Landfill Allowances Scheme (Scotland) Regulations 2005, Section 7.