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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 3**

**The Scottish Landfill Tax (Administration) Regulations 2015**

**PART 9**

**Determination of weight of material disposed of**

**Agreed methods**

**38.**—(1) This regulation applies where—

- (a) the registrable person and an authorised person have agreed in writing that weight shall be determined in accordance with rules other than those described in regulation 36 or specified under regulation 37; and
- (b) a direction under paragraph (3) below has not been made.

(2) Rules may be agreed under this regulation as regards—

- (a) the method by which weight is to be determined;
- (b) the time by reference to which weight is to be determined.

(3) Where rules have been agreed under this regulation and Revenue Scotland believes that they should no longer be applied because they do not give an accurate indication of the weight or they are not being fully observed or for some other reason, it may give a direction (which may be contained in guidance) that the agreed rules shall no longer have effect.

(4) Where this regulation applies the registrable person shall determine weight in accordance with the rules agreed (and not in accordance with the rule in regulation 36 or 37).

(5) Subject to paragraphs (6) to (8) below, rules may be agreed regarding the discounting of water if, and only if—

- (a) no water is present in the material naturally and the water is present because—
  - (i) it has been added for the purpose of enabling the material to be transported for disposal;
  - (ii) it has been used for the purpose of extracting any mineral; or
  - (iii) it has arisen, or has been added, in the course of an industrial process; or
- (b) the material is the residue from the treatment of effluent or sewage by a water treatment works.

(6) Rules may not be agreed under paragraph (5) above where any of the material is capable of escaping from the landfill site concerned by leaching unless—

- (a) it is likely to do so in the form of water only; or
- (b) the leachate is to be collected on the site concerned and treated in order to eliminate any potential it has to cause harm.

(7) Where the material falls within paragraph (5)(a) above rules may not be agreed under paragraph (5) above unless the total water which has been added, or (in a case falling within

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paragraph (5)(a)(iii) above) has arisen or has been added or both, constitutes 25 per cent. or more of the weight at the time of the disposal.

(8) Where the material falls within paragraph (5)(b) above rules may not be agreed under paragraph (5) above except for the discounting of water which has been added prior to disposal (and not of water which is present in the material naturally).

(9) For the purposes of paragraph (8) above any water which has been extracted prior to disposal shall be deemed to be water that has been added, except that where the water extracted exceeds the quantity of water added that excess shall be deemed to have been present naturally.