



# Finance Act 1996

## 1996 CHAPTER 8

### PART III

#### LANDFILL TAX

##### *Exemptions*

#### **43B** <sup>F1</sup> **Contaminated land: certificates.**

- (1) Subject to subsection (2) below, the Commissioners shall issue a certificate in relation to any land where —
  - (a) an application in writing is made by a person carrying out, or intending to carry out, a reclamation of that land (the applicant);
  - (b) the applicant provides to them such information as they may direct, whether generally or as regards that particular case;
  - (c) the application is made not less than 30 days before the date from which the certificate is to take effect; and
  - (d) the reclamation qualifies under subsection (7) below.
- (2) The Commissioners shall not refuse an application for a certificate in a case where the conditions specified in subsection (1)(a) to (d) above are satisfied unless it appears to them —
  - (a) necessary to do so for the protection of the revenue; or
  - (b) except where the applicant is one of the bodies mentioned in subsection (5) of section 43A above, that all or part of the reclamation of land to which the application relates is required in order to comply with a notice or order mentioned in subsection (4) of that section.
- (3) The Commissioners may make a certificate subject to such conditions set out in the certificate as they think fit, including (but not restricted to) conditions —
  - (a) that the certificate is to be in force only in relation to a particular quantity of material;

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*Status: Point in time view as at 01/04/2006. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 1996, Section 43B. (See end of Document for details)*

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- (b) that the certificate is to be in force only in relation to disposals made at a particular landfill site or sites;
  - (c) that the certificate is to be in force in relation to part only of the land to which the application relates.
- (4) A certificate issued under this section —
  - (a) shall have effect from the date it is issued to the applicant or such later date as the Commissioners may specify in the certificate; and
  - (b) shall cease to have effect on such date as the Commissioners may set out in the certificate, but in any event no later than the day on which the person to whom the certificate was issued ceases to have the intention to carry out any activity involving reclamation of the land in relation to which the certificate was issued.
- (5) Where a certificate has been issued to a person, the Commissioners —
  - (a) may vary it by issuing a further certificate to that person; or
  - (b) may withdraw it by giving notice in writing to that person; but this is subject to subsection (6) below.
- (6) The Commissioners shall not withdraw a certificate unless it appears to them —
  - (a) necessary to do so for the protection of the revenue;
  - (b) that the reclamation did not in fact qualify under subsection (7) below or no longer so qualifies;
  - (c) that there will not be any or any more disposals within section 43A(2) above of material from the land to which the certificate relates; or
  - (d) except where the person to whom the certificate was issued is one of the bodies mentioned in subsection (5) of section 43A above, that the removal of material from the land to which the certificate relates is required in order to comply with a notice or order mentioned in subsection (4) of that section.
- (7) A reclamation qualifies under this subsection if —
  - (a) it is, or is to be, carried out with the object of facilitating development, conservation, the provision of a public park or other amenity, or the use of the land for agriculture or forestry; or
  - (b) in a case other than one within paragraph (a) above, it is, or is to be, carried out with the object of reducing or removing the potential of pollutants to cause harm,and, in either case, the conditions specified in subsection (8) below are satisfied.
- (8) The conditions mentioned in subsection (7) above are —
  - (a) that the reclamation constitutes or includes clearing the land of pollutants which are causing harm or have the potential for causing harm;
  - (b) that, in a case within subsection (7)(a) above, those pollutants would (unless cleared) prevent the object concerned being fulfilled; and
  - (c) that all relevant activities have ceased or have ceased to give rise to any pollutants in relation to that land.
- (9) For the purposes of subsection (8) above the clearing of pollutants —
  - (a) need not be such that all pollutants are removed;
  - (b) need not be such that pollutants are removed from every part of the land in which they are present;

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- (c) may involve their being cleared from one part of the land and disposed of on another part of the same land.
- (10) For the purposes of subsection (8)(c) above an activity is relevant if —
- (a) it has at any time resulted in the presence of pollutants in, on or under the land in question otherwise than —
    - (i) without the consent of the person who was the occupier of the land at the time, or
    - (ii) by allowing pollutants to be carried onto the land by air or water, and
  - (b) at that time it was carried out —
    - (i) by the applicant or a person connected with him, or
    - (ii) by any person on the land in question.
- (11) For the purposes of subsection (10) above —
- (a) any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act 1988; <sup>F2</sup>
  - (b) the occupier of land that is not in fact occupied is the person entitled to occupy it.
- (12) In this section “land” has the meaning given by section 43A(6) above.

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**Textual Amendments**

**F1** Ss. 43A, 43B, inserted (1.8.1996) by [S.I. 1996/1529](#), [art. 3](#)

**F2** Section 204 of the [Finance Act 1996 \(c.8\)](#) defines "the Taxes Act 1988" as meaning the [Income and Corporation Taxes Act 1988 \(c.1\)](#); section 839 was amended by paragraph 20 of Schedule 17 to the [Finance Act 1995 \(c.4\)](#).

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