

EXPLANATORY MEMORANDUM TO
THE LANDFILL TAX (MATERIAL REMOVED FROM WATER) ORDER 2007

2007 No. 2909

1. Purpose

This explanatory memorandum has been prepared by HM Revenue & Customs on behalf of the Treasury and is laid before the House of Commons by command of Her Majesty.

2. Description

2.1 This Order amends section 43 of the Finance Act 1996 (Material removed from water), which exempts from landfill tax the disposal of waste removed from water by dredging.

2.2 Article 2 adds new subsection (5) which extends exemption to waste from dredging that has been treated with additives. Article 1 makes this change effective from 30 October 2007.

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

None

4. Legislative background

4.1 Landfill tax was introduced in 1996 by sections 39 to 71 of, and Schedule 5 to, the Finance Act 1996 (“the Act”). It is charged on a taxable disposal (section 40(1)). A disposal is a taxable disposal if it is a disposal of material as waste and is made by way of landfill at a landfill site (section 40(2)).

4.2 Section 43 of the Act exempts from landfill tax the disposal of waste removed from water. This Order, which comes into force on 30 October 2007, amends that section.

4.3 To ensure compliance with a ban on the disposal to landfill of liquid waste, those landfilling waste removed from water must either add material to the waste or remove the water from it. The ban comes into effect on 30 October 2007 in England, Wales and Northern Ireland and is already in place in Scotland.

4.4 Article 2 of the Order adds new subsection (5) to section 43. The result of this amendment is that, where material has been added to waste removed from water so that it is not liquid waste, that treated waste is exempt from landfill tax just as the disposal of waste removed from water that has had the water extracted from it is exempt by virtue of section 43(1) and (3).

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Exchequer Secretary, Angela Eagle MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Landfill Tax (Material Removed from Water) Order 2007 are compatible with the Convention rights.”

7. Policy background

7.1 Landfill tax is a tax on waste disposed of at authorised landfill sites throughout the United Kingdom.

7.2 Material removed from waterways by dredging is exempt from landfill tax when disposed of to landfill. The exemption currently applies only where all of the material discarded has been removed from the bed of the waterway. As a result of changes to waste acceptance criteria for landfill needed as a result of the Landfill Directive (1999/31/EC) (OJ L182 16.7.1999, p.1), which are being phased in throughout the UK, waste containing free-draining liquid must be treated to remove or immobilise the liquid content before it is sent to landfill. The Government is extending the landfill tax exemption to ensure that dredged material can continue to benefit from exemption where it has had other substances added in order to comply with these waste acceptance criteria.

8. Impact

8.1 A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

8.2 The impact on the public sector is nil.

9. Contact

Cathy Smith at HM Revenue and Customs (telephone 020 7147 0668 or e-mail: Cathy.Smith2@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.