

**EXPLANATORY MEMORANDUM TO  
THE LANDFILL TAX (QUALIFYING MATERIAL) (AMENDMENT)  
ORDER 2012**

**2012 No. 940**

1. This explanatory memorandum has been prepared by HM Treasury and is laid before the House of Commons by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 This instrument amends the list of qualifying material subject to the lower rate of landfill tax. It brings the qualifying material included within the lower rate fully into line with the criteria for lower rating provided for under section 42(4) of the Finance Act 1996.

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

3.1 None.

4. **Legislative Context**

4.1 The Order is made under section 42(3) of the Finance Act 1996. It comes into force on 1 April 2012 and has effect for disposals to landfill of bottom ash and fly ash from coal or petroleum coke combustion (including when burnt together with biomass) made or treated as made on or after that day. It amends the Landfill Tax (Qualifying Material) Order 2011. In making this Order, the Treasury had regard to the criteria published by the Commissioners for HM Revenue and Customs (HMRC) under section 42(5) of the Finance Act 1996 and to other factors they consider to be relevant.

5. **Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

The Economic Secretary, Chloe Smith, has made the following statement regarding Human Rights:

In my view the provisions of the Landfill Tax (Qualifying Material) (Amendment) Order 2012 are compatible with the Convention rights.

## **7. Policy background**

- *What is being done and why*

7.1 One of the qualifying criteria for the lower rate of landfill tax is that the waste has a low polluting potential in the landfill environment. Four ways of meeting this criterion were published by HMRC under section 42(4) of the Finance Act 1996 in its public notice “*LFT 1 – A General Guide to Landfill Tax*”. One of the ways in which the criteria can be met is by reducing the polluting potential of the waste by depositing it in mono-fill landfill sites or within separate cells (not mixed with other wastes) within a landfill site. The revision contained in this instrument introduces a condition that disposals to landfill of bottom ash and fly ash from coal or petroleum coke combustion (including when burnt together with biomass) must be deposited in mono-fill landfill sites or within separate cells (not mixed with other wastes).

7.2 This change brings the qualifying material included in the lower rate fully into line with the criteria for lower rating provided for under section 42(4) of the Finance Act 1996 and published by HMRC in the public notice referred to above.

- *Consolidation*

7.3 We have no plans for consolidation.

## **8. Consultation outcome**

8.1 The outcome of the Treasury’s and HMRC’s joint 2009 consultation with affected businesses (“Modernising landfill tax legislation”) supports the changes made by this instrument.

## **9. Guidance**

9.1 General guidance on the landfill tax can be found on the HMRC web site at:

[http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageExcise\\_ShowContent&propertyType=document&id=HMCE\\_CL\\_000509](http://customs.hmrc.gov.uk/channelsPortalWebApp/channelsPortalWebApp.portal?nfpb=true&pageLabel=pageExcise_ShowContent&propertyType=document&id=HMCE_CL_000509)

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There will be no impact on the public sector.

10.3 A Tax Information and Impact Note will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

## **11. Regulating small business**

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is a general tax provision and the same for all firms.

11.3 So far as we are aware, there are no small businesses that make disposals to landfill of bottom ash and fly ash from coal or petroleum coke combustion (including when burnt together with biomass).

## **12. Monitoring & review**

12.1 The nature of the instrument is such that there is no requirement to monitor or review its impact.

## **13. Contact**

John Durkan at the HMRC Tel: 0161 827 0906 or email:  
[john.durkan@hmrc.gsi.gov.uk](mailto:john.durkan@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.