

EXPLANATORY MEMORANDUM TO
THE LANDFILL TAX (AMENDMENT) REGULATIONS 2017

2017 No. 332

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The regulations amend the Landfill Tax Regulations 1996 (SI 1996/1527) (the 'Principal Regulations') to change the maximum credit that landfill site operators may claim against their annual landfill tax liability when making contributions in respect of the Landfill Communities Fund (LCF).

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 Following devolution of landfill tax to Scotland provided for by sections 30 and 31 of the Scotland Act 2012, which took effect on 1 April 2015, this instrument will apply to England, Wales and Northern Ireland
- 3.3 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Landfill tax was introduced by section 39 of the Finance Act 1996 ('FA 1996') and is chargeable on the disposal of waste made by way of landfill at a landfill site. Section 51 of FA 1996 provides a regulation-making power whereby persons liable to pay landfill tax are entitled to credit against their liability to the tax. Credit is established in accordance with prescribed rules. Section 53(1) of FA 1996 provides for regulations to be made for securing an entitlement to credit if those persons pay sums to an environmental body ('EB') and other prescribed conditions are fulfilled.
- 4.2 The LCF aims to address some of the impacts of landfill activity by improving the environment in the vicinity of landfill sites. The LCF is financed by the contributions from landfill site operators, who receive a credit for contributions they make to environmental bodies enrolled in the scheme.
- 4.3 Regulation 31(3) of the Principal Regulations sets out the maximum percentage of credit that landfill site operators may claim against their landfill tax liability during a particular contribution year.

- 4.4 Regulation 3 of these regulations amends regulation 31(3) of the Principal Regulations to vary the maximum percentage contribution for which a landfill operator may claim credit in the contribution year 2017-2018 from 4.2% to 5.3%.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England, Wales and Northern Ireland.
5.2 The territorial application of this instrument is England, Wales and Northern Ireland.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

- 7.1 The LCF redresses some of the environmental impacts of landfill by incentivising landfill operators to make contributions to bodies carrying out work aimed at improving the environment in the vicinity of landfill sites, for example, reclaiming of land, improvements to local community facilities, repairs to places of worship and habitat creation in support of biodiversity.
7.2 The amendment made by regulation 3 of the regulations sets the value of the fund in 2017-18 to a maximum tax credit claimable of £39.3 million as announced at Budget 2017. This maximum tax credit claimable is managed by adjusting the capping percentage figure in relation to expected landfill tax liability during the contribution year. Although the potential value of the LCF remains the same, as landfill tax receipts are forecast to decline the maximum tax credit claimable needs to be increased in order to maintain the same value.

Consolidation

- 7.3 None.

8. Consultation outcome

- 8.1 The value of the LCF is reviewed each year so no consultation is required.

9. Guidance

- 9.1 The change is being published via a briefing posted to all landfill site operators, through updating the relevant landfill tax public notice and by inclusion on the gov.uk website and the website of the LCF's regulator, ENTRUST.

10. Impact

- 10.1 The impact on businesses, charities or voluntary bodies is negligible.
10.2 There is no impact on the public sector.
10.3 A Tax Information and Impact Note has not been prepared for this instrument as it contains no substantive changes to tax policy.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring & review

- 12.1 This will be monitored through the existing compliance programme for landfill tax and as part of the existing arrangements for monitoring the LCF.

13. Contact

- 13.1 Catherine Mawer at the HM Revenue and Customs Telephone: 03000 585946 or email: Catherine.Mawer@hmrc.gsi.gov.uk can answer any queries regarding the instrument.