

POLICY NOTE

THE SCOTTISH LANDFILL TAX (EXEMPTION CERTIFICATES) ORDER 2015

SSI No:

The instrument above was made in exercise of the powers conferred by section 11 of the Landfill Tax (Scotland) Act 2014 (LT(S)A 2014). This order is subject to the affirmative procedure.

Policy Objectives

The LT(S)A 2014 provides for a Scottish Landfill Tax (SLfT) which will take effect from 1 April 2015. Section 11 of the LT(S)A 2014 provides a power for Ministers to make provision to vary what is a taxable disposal.

This instrument will provide Revenue Scotland with the ability to provide local authorities, SEPA and other authorities that exercise removal powers in the Environmental Protection Act 1990 and similar legislation, with an exemption for any landfill tax liability that may arise from the clear-up of a site following an un-authorised disposal (for example in the cases of illegal dumping and fly-tipping).

The authority can apply to Revenue Scotland for a certificate exempting them from a landfill tax liability resulting from the clear-up of a site. The landfill operator must issue a statement to the authority who in turn must send this to Revenue Scotland detailing the amount of tax they have been exempted.

Revenue Scotland can apply conditions associated with the issue of the exemption certificate.

The Scottish Government envisages that this exemption will be used by authorities who are unable to recover their costs from the responsible person who made the original un-authorised disposal and where landfill is the only practical destination for the material.

Consultation

*Scottish Landfill Tax – A Consultation on Subordinate Legislation*¹ was published in June 2014 and sought views on a range of issues covered in draft secondary legislation. The consultation closed on 31 July 2014 and analysis² was conducted and published by Zero Waste Scotland on behalf of the Scottish Government.

¹ 'Scottish Landfill Tax, A Consultation on Subordinate Legislation', published 16 May 2014, available at: <http://www.scotland.gov.uk/Resource/0045/00450678.pdf>

² 'Responses to the Public Consultation on Proposed Landfill Tax Subordinate Legislation', published October 2014 available at: www.zerowastescotland.org.uk/PublicConsultation/ProposedLandfillTaxSubordinate/Responses

The consultation stated asked, "Do you agree with the proposal to exempt SEPA and local authorities from Scottish Landfill Tax that may arise from work to clear and restore sites as a result of illegal dumping or the insolvency of a landfill site operator?"

50% of the respondents provided a response to this question. Of those answering 96% agreed with the proposal while 4% disagreed.

In total 17 comments were made by respondents covering a broad range of issues. The most common comment, made in 21% of responses, was the observation that irrespective of the proposal to exempt SEPA and local authorities from Scottish Landfill Tax, in such instances, they should still exhaust all options in recovering tax from illegal dumping activity or operations that have become insolvent.

Impact Assessments

A Business and Regulatory Impact Assessment ("BRIA")³ has been published for the regulations and orders associated with the LT(S)A 2014.

An Equality Impact Assessment ("EQIA") was published⁴ in December 2014. The order will have no impact on equality issues. A strategic environmental screening exercise has also been conducted and LT(S)A 2014 statutory secondary instruments will have no negative impact on the environment⁵.

Scottish Government
Financial Strategy Directorate
Fiscal Responsibility Division

³ 'Scottish Landfill Tax Final Business and Regulatory Impact Assessment', published 14 December 2014, available at: <http://www.scotland.gov.uk/Publications/2014/12/6274>

⁴ 'Scottish Landfill Tax – Equality Impact Assessment Results', published 17 December 2014, available at: <http://www.scotland.gov.uk/Publications/2014/12/7976>

⁵ Scottish Environmental Screening Exercise results available at: <http://www.scotland.gov.uk/Topics/Environment/environmental-assessment/sea/SEAG>