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SCOTTISH STATUTORY INSTRUMENTS

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**2005 No. 157**

**The Landfill Allowances Scheme (Scotland) Regulations 2005**

**PART 5**

**Penalties**

**Penalties: exceeding allowances**

**19.**—(1) The penalty to which a waste disposal authority is liable under section 9(2) of the Act is the excess landfill for that waste disposal authority multiplied by:—

- (a) £10 in respect of the scheme year which begins on 1st April 2005;
- (b) £25 in respect of the scheme year which begins on 1st April 2006;
- (c) £50 in respect of the scheme year which begins on 1st April 2007; and
- (d) £150 in respect of all subsequent scheme years.

(2) For the purposes of paragraph (1) “excess landfill” means, for a scheme year, the amount in tonnes by which biodegradable municipal waste sent to landfills by the waste disposal authority, as calculated under regulation 14(1)(a), exceeds the landfill allowances available to the authority.

(3) The supplementary penalty (“SP”) to which a waste disposal authority is liable under section 9(3) of the Act is the greater of—

- (a)  $SP = Fx (T1/T2) - P$

where for the target year—

F is the amount of any fine imposed on the United Kingdom in respect of the United Kingdom’s obligations under Article 5(2) of the Landfill Directive,

T1 is the amount in tonnes by which biodegradable municipal waste sent to landfills by the waste disposal authority, as calculated under regulation 14(1)(a), exceeds the landfill allowances available to the authority,

T2 is the amount in tonnes by which biodegradable municipal waste sent to landfills in the United Kingdom exceeds the maximum amount specified under section 1(1) (a) of the Act, and

P is the amount of any penalty already paid by a waste disposal authority under regulation 21 in respect of that year; or

- (b) £1000.

(4) The supplementary penalty (“SP”) to which a waste disposal authority is liable under section 9(4) of the Act is the greater of—

- (a)  $SP = Fx (T1/T2) - P$

where—

F is, for the scheme year, the amount of any fine imposed on the United Kingdom in respect of the United Kingdom's obligations under Article 5(2) of the Landfill Directive,

T1 is, for the scheme year, the amount in tonnes by which biodegradable municipal waste sent to landfills by the waste disposal authority, as calculated under regulation 14(1)(a), exceeds the landfill allowances available to the authority,

T2 is the amount in tonnes by which biodegradable municipal waste sent to landfills in the United Kingdom in the scheme year exceeds the maximum amount specified under section 1(1)(a) of the Act in respect of the last target year before the scheme year, and

P is the amount of any penalty already paid by a waste disposal authority under regulation 21 in respect of that year; or

(b) £1000.

**Penalties: failure to comply with requirements imposed by regulation 11**

**20.** The penalty to which a waste disposal authority is liable under section 12(3) of the Act is £1000 for each requirement imposed on the authorities by regulation 11 with which the authority fails to comply.

**Penalties: general**

**21.—**(1) Where a waste disposal authority is liable to a penalty, the Scottish Ministers may—

- (a) assess the amount of the penalty, and
- (b) notify the authority of that amount.

(2) Before issuing a notification under paragraph (1)(b), the Scottish Ministers shall consult the waste disposal authority and have regard to any representations made by it.

(3) The penalty is due one month after the date on which the waste disposal authority is notified by the Scottish Ministers under paragraph (1)(b) (“the due date”).

(4) Where a waste disposal authority does not pay a penalty in full by the due date, the waste disposal authority is liable to pay interest on any outstanding amount of the penalty for the period which—

- (a) begins on the due date; and
- (b) ends on the day before the day on which the penalty is paid in full.

(5) Interest under this regulation shall be payable at a rate of one percentage point above LIBOR on a day to day basis.

(6) Where an amount has been assessed and notified to a waste disposal authority under paragraph (1)(b), the amount and any interest incurred under paragraph (4) shall be recoverable by civil diligence.

(7) In paragraph (5), “LIBOR” means the sterling three month London interbank offered rate in force during the period between—

- (a) the due date, and
- (b) the date on which the penalty is paid in full.