

POLICY NOTE

THE SCOTTISH LANDFILL TAX (QUALIFYING MATERIAL) ORDER 2016

SSI 2016/93

The instrument above was made in exercise of the powers conferred by sections 13(4) and 14(7) of the Landfill Tax (Scotland) Act 2014 (LT(S)A 2014). The making of this order is subject to the provisional 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 13(4) and 14(7) of the LT(S)A 2014 provide a power to allow the materials qualifying for a lower rate of tax to be defined, by way of a list. To satisfy section 13(7) of the LT(S)A 2014, the criteria which Ministers have to consider when considering the list of qualifying material can be found on the Scottish Government [website](#)¹.

Scottish Landfill Tax is chargeable by weight and there is two rates provided for in the Scottish Landfill Tax (Standard Rate and Lower Rate) Order 2016:

- a standard rate that applies to taxable waste disposals; and
- a lower rate that applies to less polluting (or damaging) wastes listed in this order (sometimes referred to as ‘inert’ wastes).

This instrument sets out material that qualifies at the lower rate and the qualifying conditions that have to be met. The lower rate of tax recognises that there is a relatively low level of environmental impact associated with the landfilling of wastes which are less active or polluting in the landfill environment. These wastes do not biodegrade, they do not produce landfill gas and there is a low risk of pollution to groundwater or surface water. Landfill sites handling this material can be subject to a much shorter period of aftercare and be returned more readily to other productive uses.

This replacement order replicates and replaces, ‘*The Scottish Landfill Tax (Qualifying Materials) Order 2015*’ with the addition of loss on ignition testing requirements for fine waste residues. It will take effect from 1 October 2016. The test provisions will help establish the stability of fine waste residues in the landfill environment and the correct application of the lower rate of tax to such material. These provisions should also help businesses to compete equitably and provide opportunities for waste treatment solutions further up the waste hierarchy².

¹<http://www.gov.scot/Topics/Government/Finance/scottishapproach/devolvedtaxes/Scottishlandfilltax/QMO>

² ‘Guidance on the Applying the Waste Hierarchy’, <http://www.gov.scot/Publications/2013/04/7548/3>

Consultation

*Scottish Landfill Tax – A Consultation on Subordinate Legislation*³ 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 analysis⁴ was conducted and published by Zero Waste Scotland on behalf of the Scottish Government.

The consultation asked, “are there any refinements to the list of materials qualifying for the lower tax rate that should be considered for implementing the tax in Scotland?” Respondents noted that the list of qualifying materials should broadly remain the same as the list for UK Landfill Tax to avoid cross border movement of waste.

39% respondents of respondents requested that proposals for loss on ignition test rules should be subject to public consultation so that the issue of waste fines could be discussed in detail.

A subsequent consultation ran from 13 November to 29 December 2015⁵. Most respondents that replied sought parity of the main testing parameters with the testing regime in the rest of the UK, that waste fines should be heated to 440°, the loss of mass measured and only material that loses 10% or less should be eligible for the lower rate of tax.

Impact Assessments

A Business and Regulatory Impact Assessment (“BRIA”)⁶ has been published for the regulations and orders associated with LT(S)A 2014. An update to the BRIA specifically looking at the impact of new loss on ignition testing provisions on businesses, is attached.

There are no equality impacts or issues associated with this SSI. A strategic environmental screening exercise has been conducted previously and the statutory instrument will have no negative impact on the environment⁷.

Scottish Government
Financial Strategy Directorate
Fiscal Responsibility Division

³ ‘Scottish Landfill Tax, A Consultation on Subordinate Legislation’, published 16 May 2014, available at: <http://www.scotland.gov.uk/Resource/0045/00450678.pdf>

⁴ ‘Responses to the Public Consultation on Proposed Landfill Tax Subordinate Legislation’, published October 2014 available at:

www.zerowastescotland.org.uk/PublicConsultation/ProposedLandfillTaxSubordinate/Responses

⁵ <https://consult.scotland.gov.uk/fiscal-responsibility/landfill-tax-loss-on-ignition-testing>

⁶ ‘Scottish Landfill Tax Final Business and Regulatory Impact Assessment’, published 14 December 2014, available at: <http://www.scotland.gov.uk/Publications/2014/12/6274>

⁷ Scottish Environmental Screening Exercise results available at:

<http://www.scotland.gov.uk/Topics/Environment/environmental-assessment/sea/SEAG>