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STATUTORY INSTRUMENTS

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**2002 No. 1**

**LANDFILL TAX**

**The Landfill Tax (Amendment) Regulations 2002**

*Made* - - - - - *3rd January 2002*  
*Laid before the House of*  
*Commons* - - - - - *7th January 2002*  
*Coming into force* - - - - - *1st February 2002*

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by sections 51(1), 53(1), 62(1) and 62(2) of the Finance Act 1996(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Landfill Tax (Amendment) Regulations 2002 and come into force on 1st February 2002.
2. The Landfill Tax Regulations 1996(2) shall be amended in accordance with the following regulations.
3. In regulation 33A(1)(g) for “sub-paragraph (f)” substitute “sub-paragraph (d)”.
4. In regulation 38—
  - (a) in paragraph (2)(c) for “the disposal is a temporary one” substitute “the material comprised in the disposal is held temporarily”;
  - (b) in paragraph (3)(c) for “it is not temporary” substitute “the material comprised in it is not held in accordance with paragraph (2)(c) above”;
  - (c) for paragraph (4) substitute—

“(4) A use is a qualifying use if, within the relevant period, the material is—

    - (a) re-cycled or incinerated; or
    - (b) used (other than by way of a further disposal)—
      - (i) at a place other than a relevant site; or
      - (ii) for site restoration purposes at the landfill site at which the disposal was made.

(4A) Sorting of material pending—

    - (i) its use by way of any qualifying use within paragraph (4) above, or

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(1) 1996 c. 8; section 62 was amended by the Finance Act 2000 (c. 17), section 141; section 71(2) provides that any power to make regulations under Part III of the Act shall be exercisable by the Commissioners and section 70(1) defines “the Commissioners” as meaning the Commissioners of Customs and Excise.  
(2) S.I.1996/1527; relevant amending instrument is S.I. 1999/3270.

- (ii) its disposal within the relevant period,  
is also a qualifying use.”;
- (d) in paragraph (5)—
  - (i) for “paragraph (4)” substitute “ paragraphs (4) and (4A)”;
  - (ii) after paragraph (5)(a) insert—
    - “(aa) material is used for site restoration purposes if—
      - (i) the material is treated for the purposes of section 42 of the Act as qualifying material;
      - (ii) before the material is used the operator of the landfill site notifies the Commissioners in writing that he is commencing the restoration of all or a part of the site and provides such other written information as the Commissioners may require generally or in the particular case; and
      - (iii) the material is used in the restoration of the site or part specified in the notification under paragraph (ii) above;
    - (ab) “restoration” means work, other than capping waste, which is required by a relevant instrument to be carried out to restore a landfill site to use on completion of waste disposal operations;
    - (ac) the following are relevant instruments—
      - (i) a planning consent;
      - (ii) a waste management licence;
      - (iii) a resolution authorising the disposal of waste on or in land;”;
    - (iii) omit paragraph (5)(c);
- (e) at the end of the regulation add—
  - “(6) Subject to paragraph (7) below, the relevant period is the period of one year commencing with the date of the disposal or such other period as the Commissioners or an authorised person may approve or direct.
  - (7) In relation to site restoration which is a qualifying use falling within paragraph (4)(b)(ii) above, the relevant period is the period of three years commencing with the date of the disposal or such other period as the Commissioners or an authorised person may approve or direct.”.

5. In regulation 39—

- (a) for paragraph (3)(b) substitute—
  - “(b) the intended destination or use of all such material and, where any material has been removed or used, the actual destination or use of that material;”;
- (b) in paragraph (3)(c), immediately after the word “material” insert “sorted or”.

New King’s Beam House, 22 Upper  
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3rd January 2002

*Martin Brown*  
Commissioner of Customs and Excise

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st February 2002, amend the Landfill Tax Regulations 1996 to provide that the temporary holding of material pending its use for site restoration purposes at the landfill site at which the disposal was made, or pending it being sorted, is not a taxable disposal. They also correct a drafting error.

Regulation 3 corrects a drafting error made by the Landfill Tax (Amendment) Regulations 1999 ([SI 1999/3270](#)).

Regulation 4 amends the definition of “qualifying use” in regulation 38 to include the use of material for site restoration purposes and the sorting of material. It also inserts a definition of when material is used for site restoration purposes and amends the definition of “relevant period” to provide that, where the qualifying use is site restoration, the period within which the material must be used is three years commencing with the date of disposal or such other period as the Commissioners of Customs and Excise may approve or direct.

Regulation 5 amends regulation 39 to provide that the use of material by way of site restoration, or the sorting of material, has to be recorded in the temporary disposal record in order for the disposal to be treated as an exempt disposal.