

# LANDFILL TAX (SCOTLAND) ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### **Part 3 – Administration**

33. **Part 3** makes provision for—
- registration,
  - administration arrangements for accounting for tax, and
  - other matters relating to the administration of the tax.

#### **Taxable activities**

##### *Section 21 – Taxable activities*

34. **Section 21** provides that a person carries out a taxable activity if that person carries out a taxable disposal in respect of which that person is liable to pay tax or permits somebody to carry out a taxable disposal in respect of which that person is liable to pay tax. When a taxable disposal is made without the knowledge of the person who is liable to pay tax, then the person is taken to have permitted the disposal. This provision ensures that a landfill operator is responsible for all taxable disposals on their site.

#### **Registration**

##### *Section 22 – Registration*

35. Subsection (1) provides that the Tax Authority must maintain a register containing whatever information the Tax Authority deems necessary for the purposes of the collection and management of the tax. Subsections (2) to (8) set out the registration duties placed on the Tax Authority and persons who carry out taxable activities (described at section 21) as well as the notification duties placed on persons who form the intention of carrying out taxable activities.
36. Subsection (9) contains a regulation-making power to allow the Scottish Ministers to: state the timeframe within which a notification should be made to the Tax Authority; provide details on the format, content and method of sending the notification to the Tax Authority; place a duty on a person who has sent a notification to the Tax Authority to tell the Tax Authority if any of the information in the notification needs to be updated; set out how corrections will be made to entries in the register. Such regulations will be subject to the negative procedure (see section 41).
37. Subsection (10) provides that references in this Act to a registrable person are to a person who is registered under or liable to be registered under this section.

### ***Section 23 – Information required to keep register up to date***

38. **Section 23** contains a regulation-making power to allow the Scottish Ministers to require a registrable person to tell the Tax Authority of any change in that person's circumstances (or any business carried on by the registrable person) which will enable the Tax Authority to ensure the register kept under section 22 is up to date. Such regulations will be subject to the negative procedure (see section 41).

### ***Section 24 – Publication of the register.***

39. **Section 24** enables the Tax Authority to publish, by such means as it sees fit, information which is derived from the register kept under section 22 and which falls within any of the descriptions listed at subsection (2).

## **Accounting for tax**

### ***Section 25 – Accounting for tax and time for payment***

40. **Section 25** contains a regulation-making power to allow the Scottish Ministers to set out the format, frequency and manner of returns to be submitted by the registrable person. Such regulations will be subject to the negative procedure (see section 41).

## **Time of disposal where invoice issued**

### ***Section 26 – Time of disposal where invoice issued***

41. **Section 26** provides that where a disposal is made on one day and the operator issues an invoice within 14 days of that day, the disposal is to be treated as made at the time of the invoice issue and not at the time of disposal. The Tax Authority may, if requested by a person, agree to a longer invoicing period. This allows for timely information to be collected with regard to taxable deposits.

## **Adjustment of contracts**

### ***Section 27 – Adjustment of contracts***

42. **Section 27** provides that, when a contract is in place for the disposal of a waste in a landfill and the tax changes with regard to that waste, then the payment for that waste in the contract must increase to reflect the tax increase unless the contract says otherwise. This ensures that operators do not suffer as a result of tax increases not being reflected in historical contracts.

## **Evidence about tax status**

### ***Section 28 – Evidence about tax status***

43. **Section 28** provides that a certificate issued by the Tax Authority is deemed to be sufficient evidence about a person's tax status until the contrary is proved.

## **Recovery of overpaid tax**

### ***Section 29 – Recovery of overpaid tax***

44. **Section 29** sets out the conditions whereby the Tax Authority is liable to repay overpaid tax. Subsection (5) contains a regulation-making power to allow the Scottish Ministers to prescribe the form and manner of a claim made under this section and the documentary evidence required in support of said claim. Such regulations will be subject to the negative procedure (see section 41).

## **Information**

### ***Section 30 – Information: material at landfill sites***

45. **Section 30** contains a regulation-making power to allow the Scottish Ministers to make provision for the Tax Authority to obtain information relating to material at a landfill site or part of a landfill site. The regulations may: require a person to give information; make provision for “information areas” and the type of material that can be deposited in said areas; make provision about information relating to what is done with material.

### ***Section 31 – Information: site restoration***

46. **Section 31** requires that before starting to restore all or part of a landfill site, the site operator must notify the Tax Authority in writing that restoration is to commence and further that the site operator must provide any other written information the Tax Authority may ask for. Subsection (2) defines what the term “restoration” means in the context of this section and subsection (3) lists what are “relevant instruments” in the context of subsection (2).

## **Record keeping**

### ***Section 32 – Records: registrable persons***

47. **Section 32** contains a regulation-making power to allow the Scottish Ministers to require registrable persons, as defined in section 22(10), to make records. Registrable persons will be required to keep a record of the taxable activities they carry out. The regulations will prescribe the information that is required to be included in the record. Such regulations will be subject to the negative procedure (see section 41).
48. Subsection (4) provides that the duty to preserve records can be discharged by holding the records, or the information in them, in any form or by any means, in order to allow the records to be held in an electronic format.

### ***Section 33 – Records: material at landfill sites***

49. **Section 33** contains a regulation-making power to allow the Scottish Ministers to require a person to make records relating to material at a landfill site. The regulations can make provision for records to be made about the nature of the material, or what is done with the material. Such regulations will be subject to the negative procedure (see section 41). Subsections (3) and (4) of section 32 are also applicable to regulations made under this section.