

# LANDFILL TAX (SCOTLAND) ACT 2014

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## EXPLANATORY NOTES

### THE ACT

#### **Part 4 – General and Interpretation**

50. **Part 4** contains general provisions, including provision about the Tax Authority and definitions of expressions used in the Act.

#### **The Tax Authority**

##### *Section 34 – The Tax Authority*

51. **Section 34** defines the Tax Authority as the Scottish Ministers. The Tax Authority has responsibility for the collection and management of Scottish Landfill Tax (see section 1(2)).
52. Subsection (2) confers a power on the Scottish Ministers to provide by order that another person is the Tax Authority. This provision could be used to allow for Revenue Scotland to become the Tax Authority, at a future point when Revenue Scotland has a legal personality separate to that of the Scottish Ministers and subject to parliamentary agreement of provisions for Revenue Scotland. Such an order will be subject to the affirmative procedure (see section 41).

##### *Section 35 – Delegation of functions to SEPA*

53. **Section 35** allows for the delegation of Tax Authority functions to the Scottish Environment Protection Agency (SEPA). The administration and collection of Scottish Landfill Tax will be undertaken by SEPA.

##### *Section 36 – Review and appeal*

54. **Section 36** confers a power on the Scottish Ministers to make provision by regulations for the review and appeal of Tax Authority decisions. Such regulations will be subject to the affirmative procedure if they modify the Bill itself. Otherwise, they will be subject to the negative procedure (see section 41).

#### **Application of act to partnerships, groups of companies etc.**

##### *Section 37 – Partnership, bankruptcy, transfer of business etc.*

55. **Section 37** provides that the Scottish Ministers may, by regulations, make provision for determining the requirements of a partnership to comply with the tax. The Tax Authority may determine what divisions of a corporate body are registrable for Scottish Landfill Tax. The Scottish Ministers may make regulations to require the person carrying on the business after a death, bankruptcy, sequestration, liquidation, receivership or administration to inform the Tax Authority who is carrying on the business and of the event that led to them carrying it on. For a limited time such a person can be treated as the original registered person to ensure continuity of the Landfill Tax applicability. The

Scottish Ministers may also make regulations to ensure continuity during the transfer of a business as a going concern, including requiring the transferor to inform the Tax Authority of the transfer, providing for any liabilities and duties under the Act to become those of the transferee and providing for any right to repayments or credit to be satisfied by making a repayment or allowing credit.

### ***Section 38 – Groups of companies***

56. **Section 38** provides for how groups of companies and members of groups are to be treated with regard to tax liabilities. This includes providing about how groups of companies are liable through their representative member carrying out taxable activities (section 21) and how corporate bodies can be considered a group.
57. Subsections (2) to (9) set out the conditions of the application for group treatment and that a successful application will take effect from the following accounting period. Subsection (10) states that if a group stops being controlled by the persons then the group will no longer be treated as a group. Subsection (11) states that an application must be made by the bodies or person controlling them and that the application should be made 90 days before the group status is to take effect. Subsection (12) sets out the circumstances in which a corporate body or individuals will be deemed to control another corporate body, mainly if the corporate body is the latter body's holding company within the meaning of section 1159 and Schedule 6 of the Companies Act 2006 or, in the case of individuals, would be were the individuals a company.

### **Interpretation**

#### ***Section 39 – Interpretation***

58. **Section 39** sets out certain definitions used in the Act.