
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 3

The Scottish Landfill Tax (Administration) Regulations 2015

PART 7

Credit: bodies concerned with the environment

Interpretation and general provisions

26.—(1) In this Part—

“approved body” means a body approved by the regulatory body under regulation 31(1)(a) as a distributing body for transferring qualifying contributions to projects enrolled with the approved body (and only such projects);

“approved object” has the meaning given in regulation 29;

“contributing third party” means a person who has made or agreed to make (whether or not under a legally binding agreement) a payment to a registered person to secure the making by the registered person of a qualifying contribution or to reimburse the registered person, in whole or in part, for any such contribution that person has made;

“income” means—

- (a) interest;
- (b) the proportion of any proceeds attributable to the initial acquisition and disposal of an asset (or part of an asset) purchased with a qualifying contribution (or part of a qualifying contribution); or
- (c) the proportion of any proceeds attributable to any subsequent acquisition and disposal of an asset (or part of an asset) purchased with the proceeds (or part of the proceeds) of—
 - (i) the initial acquisition and disposal representing the original qualifying contributions, or
 - (ii) any subsequent acquisition and disposal representing the original qualifying contributions,

through any number of transactions;

“project” means a body which has enrolled with the approved body to receive qualifying contributions which is promoting or engaged in a project that meets at least one of the objects of the approved body;

“qualifying contribution” has the meaning given in regulation 28;

“the independent panel” means an independent panel to be set up by the Scottish Ministers to hear appeals from persons whose applications for approval have been refused under regulation 31(1)(a) and to hear appeals from persons whose approval under regulation 31(1)(a) has subsequently been revoked under regulation 32(1)(i);

“the regulatory body” means any body in relation to which an approval of Revenue Scotland under regulation 32 has effect for the time being (or in relation to which an approval of SEPA

has effect for the time being, in the event that Revenue Scotland has delegated to SEPA under section 4(1)(b) of the RSTP Act its approving function under regulation 32);

“running costs” includes any cost incurred in connection with the management and administration of a body or its assets.

(2) An approved body shall only be taken to spend a qualifying contribution in the course or furtherance of its approved objects—

- (a) in a case where the contribution is made subject to a condition that it may only be invested for the purpose of generating income, where the body so spends all of that income;
- (b) in a case not falling within sub-paragraph (a) above, where the body becomes entitled to income, where it so spends both the whole of the qualifying contribution and all of that income;
- (c) in a case not falling within either of sub-paragraphs (a) and (b) above, where the body so spends the whole of the qualifying contribution; or
- (d) where—
 - (i) it transfers any qualifying contribution or income derived therefrom to a project; and
 - (ii) that transfer is subject to a condition that the sum transferred shall be spent only in the course or furtherance of the approved body’s approved objects.

(3) Any approval, or revocation of such approval, by Revenue Scotland or the regulatory body shall be given by notice in writing to the body affected and shall take effect from the date the notice is given or such later date as Revenue Scotland or, as the case may be, the regulatory body may specify in it.

Entitlement to credit

27.—(1) Subject to the following provisions of this regulation, an entitlement to credit arises under this Part in respect of qualifying contributions made by registered persons.

(2) Subject to paragraph (3) below, a person shall be entitled to credit in respect of 90 per cent of the amount of each qualifying contribution made by the person in any accounting period; and for this purpose a qualifying contribution made—

- (a) in one accounting period;
- (b) before the return for the previous accounting period has been made; and
- (c) before the period within which that return is required to be made has expired,

shall be treated as having been made in the accounting period mentioned in sub-paragraph (b) above (and not in the accounting period in which it was in fact made).

(3) In respect of the qualifying contributions made in each contribution year, a person shall not be entitled to credit of an amount greater than 5.6 per cent of the person’s relevant tax liability.

(4) For the purpose of paragraph (3), the contribution year of a person is the person’s first contribution year and then each period of 12 months beginning on 1st April.

(5) The reference in paragraph (4) to the first contribution year of a person is a reference to the period beginning with the person’s effective date of registration and ending on the day immediately preceding the first day of the next contribution year.

(6) Where one contribution year ends and another contribution year begins in an accounting period, the amount of any qualifying contribution which, by virtue of paragraph (2), is treated as made in that period shall be apportioned, in accordance with paragraph (7), between those contribution years.

(7) The apportionment shall be on the basis of either—

- (a) the number of days of the accounting period that fall before 1st April and the number of days that fall on and after that day; or
- (b) the amount of tax charged on taxable disposals made in the accounting period before 1st April and the amount of tax charged on taxable disposals made in that period on and after that day,

whichever the registered person may choose.

(8) Subject to paragraph (9) below, the reference in paragraph (3) above to the relevant tax liability of a person is a reference to the aggregate of—

- (a) the tax payable by the person, if any, in respect of the accounting period in relation to which that liability falls to be determined; and
- (b) the tax payable by the person, if any, in respect of any earlier accounting period or periods which fall within the same contribution year as that accounting period;

and where in respect of any accounting period the person is entitled to a payment under regulation 16 the aggregate of the tax payable by that person in respect of the accounting periods mentioned in sub-paragraphs (a) and (b) above shall be reduced by the amount of that payment.

(9) For the purposes of paragraph (8) above any entitlement to credit arising under this Part shall be disregarded in determining the tax payable by a person in respect of any period.

Qualifying contributions

28.—(1) A payment is a qualifying contribution if—

- (a) it is made by a registered person to an approved body (provided that the body has the object contained in regulation 29(5)(f) and is approved by the regulatory body (as approved by Revenue Scotland under regulation 32(1)(a)) and within 2 years of the approved body having received it, it has been transferred to a project (otherwise credit is lost but the registered person shall be repaid contributions);
- (b) it is made subject to a condition that the body shall spend the sum paid or any income derived from it or both only in the course or furtherance of its approved objects;
- (c) the requirements of paragraphs (2) to (5) below have been complied with in relation to that payment; and
- (d) it is not repaid to the registered person, or a contributing third party, in the same accounting period as that in which it was made.

(2) A person claiming credit arising under this Part shall make a record containing the following information—

- (a) the amount and date of each payment the person has made to an approved body;
- (b) the name and registration number of that body;
- (c) the name and address of any contributing third party; and
- (d) the amount of the payment made or to be made by the contributing third party and the date, or as the case may require, dates on which payment of the whole or any part of that amount—
 - (i) was received; or
 - (ii) is expected to be received.

(3) A person claiming credit under this Part for a contribution in relation to which there is a contributing third party shall have provided to the regulatory body or, if they are performing the functions specified in regulation 31(1) below, to Revenue Scotland the following information—

- (a) the name and address of the contributing third party;

- (b) the amount of the payment made or to be made by the contributing third party and the date, or as the case may require, dates on which payment of the whole or any part of that amount—
 - (i) was received; or
 - (ii) is expected to be received;
 - (c) the registration number of the approved body to whom the contribution was made.
- (4) A person claiming credit under this Part for a contribution in relation to which there is a contributing third party shall inform the approved body to which the contribution is made of the name and address of the contributing third party.
- (5) For the purposes of this Part where any qualifying contribution or income derived therefrom is transferred to a body as described in regulation 26(2)(d)—
- (a) the body to whom the sum is transferred shall be treated as having received qualifying contributions of the amount concerned; and
 - (b) that body shall be treated as having received those qualifying contributions from the registered person or persons who originally paid them (but this shall not give rise to any further entitlement to credit in respect of those contributions).

Bodies eligible for approval

- 29.—(1) A body is eligible to be approved by the regulatory body if—
- (a) it is—
 - (i) a body corporate; or
 - (ii) a trust, partnership or other unincorporated body;
 - (b) its objects are or include any of the objects within paragraph (5) below (approved objects);
 - (c) it is precluded from distributing and does not distribute any profit it makes or other income it receives;
 - (d) it applies any profit or other income to the furtherance of its objects (whether or not approved objects);
 - (e) it is precluded from applying any of its funds for the benefit of any of the persons—
 - (i) who have made qualifying contributions to it; or
 - (ii) who were a contributing third party in relation to such contributions,
 except that such persons may benefit where they belong to a class of persons that benefits generally;
 - (f) it is not controlled by one or more of the persons and bodies listed in paragraphs (2) and (3) below; and
 - (g) none of the persons or bodies listed in paragraph (3) below is concerned in its management.
- (2) The persons and bodies mentioned in paragraph (1)(f) above are—
- (a) a local authority;
 - (b) a body corporate controlled by one or more local authorities;
 - (c) a registered person;
 - (d) a person connected with any of the persons or bodies mentioned in sub-paragraphs (a) to (c) above.
- (3) The persons and bodies mentioned in paragraph (1)(f) and (g) above are—

- (a) a person who controlled or was concerned in the management of a body the approval of which was revoked otherwise than under regulation 31(1)(d);
- (b) a person who has been convicted of an indictable offence;
- (c) a person who is disqualified from being a charity trustee under the Charities and Trustee Investment (Scotland) Act 2005(1) (or any analogous disqualification provision);
- (d) a person connected with any of the persons or bodies mentioned in sub-paragraphs (a) to (c) above;
- (e) a person who is incapable by reason of mental disorder.

(4) For the purpose of paragraph (3)(e) above, a person shall be treated as incapable by reason of mental disorder where—

- (a) in Scotland, the person is incapable within the meaning of section 1(6) of the Adults with Incapacity (Scotland) Act 2000(2);
- (b) in England and Wales, the person lacks capacity within the meaning of the Mental Capacity Act 2005(3) to administer and manage his property and affairs; or
- (c) in Northern Ireland, the court has exercised any of its powers under Part VIII of the Mental Health (Northern Ireland) Order 1986 (whether or not by virtue of Article 97(2) of that Order),

but shall cease to be so treated where the judge or court concerned has made a finding that the person is not or is no longer incapable of managing and administering his or her property and affairs.

(5) Subject to paragraph (15) below, the objects of a body are approved objects insofar as they are any of the following objects—

- (a) in relation to any land in Scotland the use of which for any economic, social or environmental purpose has been prevented or restricted because of the carrying on of an activity on the land which has ceased—
 - (i) reclamation, remediation or restoration; or
 - (ii) any other operation intended to facilitate economic, social or environmental use;but this is subject to paragraph (7) below;
- (b) where it is for the protection of the environment, any community based recycling, re-use and waste prevention projects, but this is subject to paragraph (8) below;
- (c) where it is for the protection of the environment, the provision, maintenance or improvement of—
 - (i) a public park in Scotland; or
 - (ii) another public amenity in Scotland,in the vicinity of a landfill site or transfer station, provided the conditions in paragraph (10) below are satisfied;
- (d) where it is for the protection of the environment, and subject to paragraph (8) below, the conservation or promotion of biological diversity through—
 - (i) the provision, conservation, restoration or enhancement of a natural habitat in Scotland; or
 - (ii) the maintenance or recovery of a species in its natural habitat in Scotland, on land or in water situated in the vicinity of a landfill site or transfer station;

(1) 2005 asp 10.
(2) 2000 asp 4.
(3) 2005 c.9.

- (e) where it is for the protection of the environment, the maintenance, repair or restoration of a building or other structure or a site of archaeological interest (including their landscape context) in Scotland which—
- (i) is a place of religious worship or of historic, archaeological or architectural interest;
 - (ii) is open to the public; and
 - (iii) is situated in the vicinity of a landfill site or transfer station,
- provided the conditions in paragraph (10) below are satisfied;
- (f) the provision of financial, administration and other similar services to bodies which are enrolled with an approved body which is registered with the regulatory body.
- (6) In paragraph (5)(d) above “biological diversity” has the same meaning as in the United Nations Environmental Programme Convention on Biological Diversity of 1992.
- (7) An object shall not be, or shall no longer be, regarded as falling within paragraph (5)(a) above if the reclamation, remediation, restoration or other operation—
- (a) is such that any benefit from it will accrue to any person who has carried out or knowingly permitted the activity which has ceased;
 - (b) involves works which are required to be carried out by a notice or order within paragraph (9) below; or
 - (c) is wholly or partly required to be carried out by a relevant condition.
- (8) An object shall not be, or shall no longer be, regarded as falling within paragraph (5)(b) or (d) above if it involves works or activities which—
- (a) are required to be carried out by a notice, requirement or order within paragraph (9) below;
 - (b) are required to be carried out in accordance with an agreement made under section 16 of the National Parks and Access to the Countryside Act 1949(4);
 - (c) are required to be carried out in accordance with an agreement made under section 15 of the Countryside Act 1968(5);
 - (d) give effect to any provision of a management scheme under section 28J of the Wildlife and Countryside Act 1981(6) or are required to be carried out by a notice served under section 28K of that Act;
 - (e) are wholly or partly required to be carried out by a relevant condition; or
 - (f) are carried out with a view to profit.
- (9) The notices, requirements and orders mentioned in paragraphs (7) and (8) above are—
- (a) a remediation notice served under section 78E of the Environmental Protection Act 1990(7);
 - (b) a requirement imposed by virtue of section 38(9) of that Act;
 - (c) an enforcement notice served under section 42 of that Act;
 - (d) any order granted following proceedings brought under section 42(6A)(8) of that Act for the purpose of securing compliance;
 - (e) a notice served under section 59 of that Act;

(4) 1949 c.97.

(5) 1968 c.41.

(6) 1981 c.69. Sections 28 to 28R were substituted by the Countryside and Rights of Way Act 2000 (c.37), Schedule 9 paragraph 1.

(7) 1990 c.43. Section 78E was inserted by the Environment Act 1995 (c.25), section 57.

(8) Section 42(6A) was inserted by the Environment Act 1995, Schedule 22, paragraph 76(7).

- (f) a notice of surrender issued under regulation 28 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011⁽⁹⁾;
 - (g) an enforcement notice served under regulation 32(2) of those Regulations;
 - (h) an order under regulation 49 of those Regulations;
 - (i) an enforcement notice served under regulation 55 of the Pollution Prevention and Control (Scotland) Regulations 2012⁽¹⁰⁾;
 - (j) a revocation notice served under regulation 50 of those Regulations;
 - (k) a suspension notice given under regulation 56 of those Regulations;
 - (l) an order under regulation 70 of those Regulations;
 - (m) a notice under sections 21 and 22 of the Radioactive Substances Act 1993⁽¹¹⁾;
 - (n) any other notice, requirement or order by or under statute (whether by a court or other authority or otherwise) requiring the carrying out of measures or refraining from carrying out measures for the conservation or promotion of biological diversity as specified in paragraph (5)(d); or
 - (o) any remedial action required to be carried out under the Environmental Liability (Scotland) Regulations 2009⁽¹²⁾.
- (10) The conditions mentioned in sub-paragraphs (c) and (e) of paragraph (5) above are—
- (a) in a case falling within sub-paragraph (c), that the provision of the park or amenity is not required by a relevant condition; and
 - (b) in a case falling within either of those sub-paragraphs, that the park, amenity, site, building or structure (as the case may be) is not to be operated with a view to profit.
- (11) Where the objects of a body are or include any of the objects set out in paragraph (5) above, the following shall also be regarded as objects within that paragraph—
- (a) the use of qualifying contributions in paying the running costs of the body, but this is subject to paragraph (12) below;
 - (b) the use of qualifying contributions in paying a contribution to the running costs of the regulatory body.
- (12) The use of qualifying contributions in paying the running costs of the body shall only be regarded as an approved object if the running costs of the body attributable to funds applied by the body to the object do not exceed ten per cent of the funds so applied.
- (13) For the purposes of paragraph (1) above a body or person (in either case, for the purposes of this paragraph, “the person”) shall be taken to control a body where—
- (a) in the case of a body which is a body corporate, the person is empowered by statute to control that body’s activities or if the person is that body’s holding company within the meaning of section 1159 of and Schedule 6 to the Companies Act 2006, and an individual shall be taken to control a body corporate if the individual, were the individual a company, would be that body’s holding company within the meaning of that Act;
 - (b) in the case of a body which is a trust or a partnership, where—
 - (i) the person, taken together with any nominee of the person, or
 - (ii) any nominee of the person, taken together with any nominee of that nominee or any other nominee of the person,

⁽⁹⁾ S.S.I. 2011/209.

⁽¹⁰⁾ S.S.I. 2012/360.

⁽¹¹⁾ 1993 c.12.

⁽¹²⁾ S.S.I. 2009/266.

- forms a majority of the total number of trustees or partners, as the case may be;
- (c) in the case of any other body, where the person, whether directly or through any nominee, has the power—
- (i) to appoint or remove any officer of the body;
 - (ii) to determine the objects of the body; or
 - (iii) to determine how any of the body's funds may be applied.
- (14) For the purposes of paragraphs (7), (8) and (10) above a condition is relevant if it is—
- (a) a condition of any planning permission or other statutory consent or approval granted on the application of any person making a qualifying contribution to the body; or
 - (b) a term of an agreement made under section 75 of the Town and Country Planning (Scotland) Act 1997⁽¹³⁾,
- to which such a person is a party.
- (15) The objects of a body referred to in paragraph (5) are approved subject to the condition that an approved body must not discriminate in selecting a project on the grounds of geographic location of a project (other than in respect of vicinity rules) or the objective of a project.

Obligations of approved bodies

- 30.**—(1) An approved body shall—
- (a) continue to meet all the requirements of regulation 29 above;
 - (b) comply with such conditions as the regulatory body may impose from time to time under regulation 31(1)(b) (including any conditions varied under regulation 31(1)(c));
 - (c) apply qualifying contributions and any income derived therefrom only to approved objects;
 - (d) not apply any of its funds for the benefit of any of the persons who have made qualifying contributions to it or who were contributing third parties in relation to such contributions (except to the extent that they benefit by virtue of belonging to a class of persons that benefits generally);
 - (e) make and retain records of the following—
 - (i) the name, address and registration number of each registered person making a qualifying contribution to the body;
 - (ii) the name and address of any contributing third party in relation to a qualifying contribution received by the body;
 - (iii) the amount and date of receipt of each qualifying contribution and the amount and date of receipt of any income derived therefrom;
 - (iv) in the case of a transfer of the whole or part of any qualifying contribution or income derived therefrom to or from the body, the date of the transfer, the amount transferred, the name and enrolment number of the body from or, as the case may require, to which it was transferred, the name, address and registration number of the person who made the qualifying contribution and the name and address of any contributing third party in relation to the qualifying contribution;
 - (v) in respect of each qualifying contribution and any income derived therefrom, including any such amount transferred to the body by another approved body, the date of and all other details relating to its expenditure;

⁽¹³⁾ 1997.c.8.

- (f) provide the following information to the regulatory body or, if they are performing the functions specified in regulation 31(1) below, to Revenue Scotland within 7 days of the receipt by it of any qualifying contribution—
 - (i) the amount of the contribution;
 - (ii) the date it was received;
 - (iii) the name and registration number of the person making the contribution;
 - (iv) the name and address of any contributing third party in relation to the contribution notified to it by virtue of regulation 28(4) above;
- (g) notify the regulatory body within seven days of any transfer by that approved body of qualifying contributions or of income derived therefrom of—
 - (i) the date of the transfer;
 - (ii) the registration number of the approved body by which the transfer was made;
 - (iii) the amount transferred;
 - (iv) the name and registration number of the person who made the qualifying contribution;
 - (v) the name and address of any contributing third party in relation to the contribution; and
 - (vi) the approved objects to which the transferred funds are to be applied;
- (h) provide the regulatory body or, if they are performing the functions specified in regulation 31(1) below, Revenue Scotland with information from or access to the records referred to in sub-paragraph (e) above within 14 days (or such longer period as the regulatory body or, as the case may require, Revenue Scotland may allow) of a request being made for such information or access;
- (i) submit to the regulatory body or, if they are performing the functions specified in regulation 31(1) below, to Revenue Scotland within 28 days of the end of the relevant period determined in accordance with paragraph (2) below details of—
 - (i) qualifying contributions and any other income or profit whatsoever received by it;
 - (ii) any expenditure made by it during the period; and
 - (iii) any balances held by it at the end of the period;
- (j) submit to the regulatory body at its request, not later than the day specified in paragraph (3), so many of the following details as it requires at any time during the relevant period—
 - (i) qualifying contributions and any other income or profit whatsoever received by it during the period;
 - (ii) any expenditure made by it during the period; and
 - (iii) any balances held during the period;
- (k) if Revenue Scotland are performing the functions specified in regulation 31(1) instead of the regulatory body, submit, at their request, not later than the day specified in paragraph (3), so many of the following details as they may require at any time during the relevant period—
 - (i) qualifying contributions and any other income or profit whatsoever received by it during the period;
 - (ii) any expenditure made by it during the period; and
 - (iii) any balances held during the period;

- (l) submit to the regulatory body at its request, not later than the fourteenth day following the day on which the request is made, independently audited financial accounts for the approved body's last financial year; but such a request may not be made earlier than 10 months following the end of that financial year;
 - (m) pay to the regulatory body an amount equal to 5 per cent of each qualifying contribution it receives, or such lesser amount as the regulatory body may require, towards its running costs within 14 days of receipt of a demand for payment;
 - (n) on making a transfer to a project of the whole or part of a qualifying contribution or of income derived therefrom, notify the registered person who made the qualifying contribution, and any contributing third party in relation to it, of—
 - (i) the date of the transfer;
 - (ii) the name and enrolment number of the body by or, as the case may require, to whom the transfer was made;
 - (iii) the amount transferred; and
 - (iv) the approved objects to which the transferred funds are to be applied; and
 - (o) ensure that projects only spend money from contributions (and any income derived from them) on approved objects.
- (2) For the purposes of paragraphs (1)(i), (1)(j) and (1)(k) the relevant period in respect of an approved body is—
- (a) in the case of the first such period, the period commencing with the date on which the body was approved and ending on the following 31st March; and
 - (b) in the case of subsequent periods, the period of 12 months commencing with the day after the end of the first or, as the case may require, a subsequent period.
- (3) The day referred to in paragraphs (1)(j) and (1)(k) is the twenty-eighth day following the day on which a request is made.
- (4) Where an approved body submits details in accordance with a request made under paragraph (1)(j) or paragraph (1)(k) the requirement in paragraph (1)(i) shall not apply in respect of those details.

Functions of the regulatory body

- 31.—**(1) The regulatory body—
- (a) shall, on application being made to it by a body which is eligible to be approved under regulation 29 above, approve that body, with a body whose application is refused being entitled to an appeal to the independent panel whose decision shall be final;
 - (b) must ensure the compliance of the approved bodies with their obligations imposed under regulation 30 and may—
 - (i) at the time a body is approved; or
 - (ii) subsequently, by notice delivered to that body,
 impose such conditions as it sees fit;
 - (c) may, by notice delivered to a body, vary or revoke any condition of the approval;
 - (d) shall revoke the approval of any body which applies for its approval to be revoked;
 - (e) shall maintain a register of bodies which it has approved;
 - (f) shall allocate an identifying number (the registration number) to each such body;
 - (g) shall remove from the register any body whose approval has been revoked under subparagraph (d) or regulation 32(1)(i);

- (h) shall satisfy itself, by reference to such records or other documents or information as it thinks fit, whether or not the qualifying contributions received by the body have been spent by it only in the course or furtherance of its approved objects;
 - (i) shall publish information regarding which bodies it has approved and which approvals have been revoked under sub-paragraph (d) or regulation 32(1)(i);
 - (j) shall comply with such conditions as Revenue Scotland may impose from time to time under regulation 32(1)(b) (including any conditions varied under regulation 32(1)(c)); and
 - (k) shall be entitled to investigate approved bodies and projects enrolled with approved bodies.
- (2) Where—
- (a) Revenue Scotland revoke their approval of the regulatory body without approving another body with effect from the day after the revocation takes effect; and
 - (b) they have not given notice in writing to each body which has been approved (and which has not been removed from the register), no later than the date such revocation takes effect, that they will be performing any of the functions specified in paragraph (1) above,

the approval of all such bodies shall be deemed to have been revoked on the day Revenue Scotland revoked their approval of the regulatory body.

Functions of Revenue Scotland

32.—(1) Revenue Scotland—

- (a) may approve a body to carry out the functions prescribed by regulation 31(1) above;
- (b) may—
 - (i) at the time the body is approved; or
 - (ii) subsequently, by notice delivered to that body, impose such conditions as they see fit;
- (c) may, by notice delivered to the body, vary or revoke any condition of the approval;
- (d) may revoke the approval;
- (e) shall not approve a body without first revoking the approval for any other body with effect from a time earlier than that for which the new approval is to take effect;
- (f) for any time as regards which no approval has effect, may perform any of the functions specified in regulation 31(1);
- (g) may disclose to the regulatory body information which relates to the tax affairs of registered persons and which is relevant to the credit scheme established by this Part;
- (h) having regard to any information received from the regulatory body, may serve notices under regulation 33; and
- (i) may, with respect to the approval of a body approved under regulation 31(1)(a), revoke that approval if the approved body fails to comply with any requirement of regulation 30(1) but any person whose approval has been so revoked shall be entitled to appeal to the independent panel whose decision shall be final.

(2) Without prejudice to the generality of paragraph (1)(d) above, Revenue Scotland may revoke their approval of the regulatory body where it appears to them necessary to do so for the proper operation of the credit scheme established by this Part.

Repayment of credit

33.—(1) Where a person has benefited from an amount of credit to which the person was entitled under this Part and Revenue Scotland serve upon the person a notice in relation to a qualifying contribution paid to an approved body—

- (a) specifying that—
 - (i) they are not satisfied that the contribution has been spent by the body only in the course or furtherance of its approved objects; or
 - (ii) they are not satisfied that any income derived from the contribution has been so spent by the body;
- (b) specifying a breach of a condition to which the approval of the body was made subject and which occurred before the contribution was spent by the body; or
- (c) specifying that—
 - (i) the approval of the body has been revoked; and
 - (ii) the contribution had not been spent by the body before that revocation took effect,

the person shall repay to Revenue Scotland the credit claimed in respect of the qualifying contribution.

(2) For the purpose of paragraph (1) above where—

- (a) repayment is required in relation to credit that has been claimed in respect of more than one qualifying contribution in an accounting period; and
- (b) regulation 27(3) applied so that the amount of credit was restricted,

the person shall be deemed to have claimed credit in respect of such proportion of each contribution made in that accounting period as the total credit claimed in accordance with that regulation forms of the total of the contributions made.

(3) Where—

- (a) a person has benefited from an amount of credit to which the person was entitled under this Part; and
- (b) the whole or a part of the qualifying contribution in respect of which the entitlement to credit arose has been repaid to the person or a person who was a contributing third party in relation to the qualifying contribution,

the person shall pay to Revenue Scotland an amount equal to 90 per cent of the amount repaid to the person or, as the case may require, to the contributing third party.

(4) Paragraph (5) below applies where—

- (a) a person has benefited from an amount of credit to which the person was entitled under this Part; and
- (b) the person is entitled to a payment under regulation 16 in respect of a later accounting period in the same contribution year as the accounting period in respect of which that credit was claimed.

(5) Where this paragraph applies the person shall pay to Revenue Scotland an amount equal to the difference between—

- (a) the aggregate of—
 - (i) the amount of the credit from which the person has benefited; and
 - (ii) any other amounts of credit arising under this Part which the person is or was entitled to claim,

in respect of that contribution year; and

- (b) the amount of credit which the person would have been entitled to claim if the person had in fact claimed the aggregate amount mentioned in sub-paragraph (a) above in the return for the accounting period in respect of which there was entitlement to payment under regulation 16.

(6) Where—

- (a) a person has benefited from an amount of credit to which the person was entitled under this Part; and
- (b) the person acquires an asset from a body to which the person has made a qualifying contribution for—
 - (i) no consideration; or
 - (ii) a consideration which is less than the open market value of the asset,

the person shall pay to Revenue Scotland an amount equal to 90 per cent of the amount by which the open market value exceeds the consideration; but this is subject to paragraph (7) below.

(7) A person required to pay an amount to Revenue Scotland by paragraph (6) above—

- (a) shall not be required to pay more than the total amount of relevant credit;
- (b) shall not be entitled to claim any further amounts of credit in respect of qualifying contributions made by the person to the body in question on or after the date on which the person acquired the asset.

(8) For the purposes of paragraphs (6) and (7) above—

- (a) “asset” includes land, goods or services and any interest in any of these;
- (b) the open market value of an asset is the amount of the consideration in money that would be payable for the asset by a person standing in no such relationship with any person as would affect that consideration;
- (c) “relevant credit” means credit arising under this Part—
 - (i) from which a person has benefited; and
 - (ii) which has arisen in respect of qualifying contributions made by the person to the body in question or treated by virtue of regulation 28(5) as having been received by that body from the person.