
SCOTTISH STATUTORY INSTRUMENTS

2016 No. 93

The Scottish Landfill Tax (Qualifying Material) Order 2016

Citation, commencement and application

1.—(1) This Order may be cited as the Scottish Landfill Tax (Qualifying Material) Order 2016 and comes into force on 1st October 2016.

(2) This Order has effect in relation to taxable disposals made, or treated as made, on or after 1st October 2016.

Interpretation

2. In this Order—

“fines” are fractions of material produced by a waste treatment process that involves an element of mechanical treatment;

“LOI percentage threshold” means the amount of non-qualifying material contained in fines, as indicated by the percentage of the mass of those fines lost on ignition;

“LOI test” means a test to determine the LOI percentage threshold of fines, conducted in accordance with guidance published by Revenue Scotland;

“non-qualifying material” means any material other than qualifying material;

“qualifying fines” are fines that consist entirely of qualifying material or consist entirely of material that, in accordance with a direction contained in guidance published by Revenue Scotland, must be treated as qualifying material if it would be such material but for a small quantity of non-qualifying material;

“transfer note” means a transfer note within the meaning of regulation 3 of the Environmental Protection (Duty of Care) (Scotland) Regulations 2014⁽¹⁾.

Qualifying material

3.—(1) Subject to paragraphs (3) and (4), the material listed in column 2 of the Schedule is qualifying material for the purposes of section 13(4) of the Landfill Tax (Scotland) Act 2014.

(2) The Schedule is to be construed in accordance with the notes contained in it.

(3) The material listed in column 2 of the Schedule must not be treated as qualifying material unless any condition set out alongside the description of the material in column 3 of the Schedule is met.

(4) Where the owner of the material immediately prior to the disposal and any operator of the landfill site at which the disposal is made are not the same person, material must not be treated as qualifying material unless it meets the condition in paragraph (5).

(5) The condition is that a transfer note includes in relation to each type of material of which the disposal consists a description of the material which—

(a) accords with its description in column 2 of the Schedule;

- (b) accords with a description listed in a note to the Schedule (other than by way of exclusion);
or
- (c) is some other accurate description.

Qualifying fines

4.—(1) Qualifying fines must not be treated as qualifying material unless the conditions in paragraph (2) are met.

(2) The conditions are that—

- (a) where the owner of the fines immediately prior to the disposal and the registrable person are not the same person, the registrable person holds a transfer note in respect of the fines;
- (b) the registrable person holds such evidence as is specified in guidance published by Revenue Scotland that the fines are qualifying fines;
- (c) where a LOI test has been conducted on any part of the fines—
 - (i) the material has been heated to a temperature of 440°C for a minimum of 5 hours; and
 - (ii) the LOI percentage threshold does not exceed 10%; and
- (d) where a registrable person has been directed by Revenue Scotland to conduct a LOI test of a quantity of material proposed to be disposed of as qualifying fines, that person conducts the test.

(3) No material disposed of by a registrable person as fines is to be treated as qualifying material unless the registrable person has conducted the LOI test.

Revocation

5. The Scottish Landfill Tax (Qualifying Material) Order 2015(2) is revoked.

St Andrew's House,
Edinburgh
10th February 2016

JOHN SWINNEY
A member of the Scottish Government