

Order made by the Treasury and laid before the House of Commons under section 71(4) and (7) of the Finance Act 1996, for approval by resolution of the House of Commons within twenty eight days beginning with the day on which the Order was made, subject to extension for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

2012 No. 940

LANDFILL TAX

**The Landfill Tax (Qualifying Material) (Amendment) Order
2012**

<i>Made</i>	- - - -	<i>26th March 2012</i>
<i>Laid before the House of Commons</i>		<i>27th March 2012</i>
<i>Coming into force</i>	- -	<i>1st April 2012</i>

The Treasury, in exercise of the power conferred by sections 42(3) and 63(5) of the Finance Act 1996(a), make the following Order following compliance by the Treasury and the Commissioners for Her Majesty's Revenue and Customs with the requirements of section 42(4) to (6) of that Act(b).

Citation, commencement and effect

1. This Order may be cited as the Landfill Tax (Qualifying Material) (Amendment) Order 2012 and comes into force on 1st April 2012 and has effect in relation to disposals made or treated as made on or after that day.

Amendment of previous Order

2. The Schedule to the Landfill Tax (Qualifying Material) Order 2011(c) is amended by the substitution of the following for Note (7)—

“(7) Subject to Note (8), Group 5 comprises—

- (a) bottom ash and fly ash produced only from the combustion of wood, of waste or of both;
- (b) bottom ash and fly ash from the combustion of coal, of petroleum coke or of both, deposited in a cell containing the product of that combustion alone; and

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- (a) 1996 c. 8. Subsections 42(4) to (6) were substituted for section 42(4) of the Finance Act 1996 (c. 8) by section 24 of the Finance (No. 3) Act 2010 (c. 33). There are other amendments to section 42, but none is relevant.
 - (b) Landfill tax was under the care and management of the Commissioners of Customs and Excise under section 39(2) of the Finance Act 1996. The functions of the Commissioners for Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that, in so far as is appropriate in consequence of section 5, a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.
 - (c) S.I. 2011/1017.

- (c) bottom ash and fly ash from the combustion of coal, of petroleum coke or of both, burnt together with biomass and deposited in a cell containing the product of that combustion and burning alone.”

*Angela Watkinson
Michael Fabricant*

26th March 2012

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order comes into force on 1st April 2012 and has effect for disposals of qualifying material (i.e. material that can be disposed of, or is treated as disposed of, in landfill sites at a reduced rate of landfill tax). It amends the Landfill Tax (Qualifying Material) Order 2011. In making this Order, the Treasury had regard to the criteria published by the Commissioners for Her Majesty's Revenue and Customs under section 42(5) of the Finance Act 1996 and to other factors they considered to be relevant. The criteria were published by the Commissioners in December 2010 and can be found at <http://www.hmrc.gov.uk/briefs/excise-duty/brief0811.htm>. Article 2 of this Order replaces and changes Note (7) contained in the Schedule to the Landfill Tax (Qualifying Material) Order 2011. The changes require that, in relation to disposals made or treated as made on or after 1st April 2012, bottom ash and fly ash from coal or petroleum coke combustion taken alone or added to biomass burnt with it have to be deposited in a cell containing no other waste at all in order to be qualifying material. A Tax Information and Impact Note covering this instrument is published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.

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