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STATUTORY INSTRUMENTS

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**2015 No. 599**

**LANDFILL TAX**

**The Devolution of Landfill Tax (Consequential,  
Transitional and Saving Provisions) Order 2015**

<i>Made</i>	- - - -	<i>9th March 2015</i>
<i>Laid before the House of Commons</i>	- - - -	<i>10th March 2015</i>
<i>Coming into force</i>	- -	<i>31st March 2015</i>

The Treasury makes the following Order in exercise of the powers conferred by sections 42(3), 42(4) and 42(5) of the Scotland Act 2012(1).

**Citation and interpretation**

1.—(1) This Order may be cited as the Devolution of Landfill Tax (Consequential, Transitional and Saving Provisions) Order 2015.

(2) In this Order—

“FA 1996” means the Finance Act 1996(2);

“LFTR 1996” means the Landfill Tax Regulations 1996(3);

“the transitional period” means a period which commences on the day on which the amendments made by sections 30 and 31 of the Scotland Act 2012 come into force and which ends at the expiry of 2 years.

(3) Save for where an alternative meaning is given, expressions used in this Order and in LFTR 1996 have the same meaning in this Order as they have in LFTR 1996.

**Amendments to Part 7 of LFTR 1996**

2. LFTR1996 are amended as follows.

3. In regulation 33 (bodies eligible for approval) after paragraph (10) insert—

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(1) 2012 c.11

(2) 1996 c.8

(3) SI 1996/1527; regulation 33 has been amended by SI 1999/3270, SSI 2000/323, SI 2003/46, SI 2003/605, SI 2003/2313, SI 2006/1054, SI 2007/1898, SI 2007/3538, SI 2009/1890, SI 2010/675, SI 2012/360 and SI 2013/658; regulation 36 has been amended by SI 1999/2370; there are other amendments to SI 1996/1527 but they are not relevant to this Order.

“(11) An object shall only be regarded as falling within paragraph (2) above if the work involved is carried out in England, Wales, or Northern Ireland.

(12) For the purposes of paragraph (11) work is to be regarded as being carried out either—

- (a) in the place where, (as the case may be), the land, water, public park or public amenity or building or other structure referred to in sub-paragraphs (2)(a)-(f) is located,
- (b) in the case of land, water, a public park or public amenity which comprises an area of which a proportion is located in England, Wales or Northern Ireland, the place where the largest proportion of that area is located, or
- (c) in the case of a building or other structure of which a proportion is located in England, Wales, or Northern Ireland, the place where the largest proportion of that building or other structure is located.”.

#### **Credit: Bodies Concerned with the Environment-Transitional Provisions**

4.—(1) This article applies where—

- (a) a payment is a qualifying contribution at the time it is made, and
- (b) as a result of the amendments made by article 3 of this Order (“the relevant amendments”) the payment would not be a qualifying contribution if it were to be accounted for in a return for an accounting period beginning on or after the day on which the transitional period commences.

(2) Where this article applies the relevant amendments shall be disregarded provided that the payment is spent during the transitional period, but this is subject to paragraphs (3) and (4) below.

(3) Any payment to which this article applies that has not been spent during the transitional period (“residual funding”) and is not being held after the end of that period for an object which is an approved object shall continue to be treated as a qualifying contribution to the extent that—

- (a) the residual funding is to be used to pay that approved body’s running costs,
- (b) the proportion of residual funding to be used for that purpose does not exceed the proportion of that body’s total running costs that is, on a just and equitable basis, attributable to its carrying out of approved objects, and
- (c) the total amount of qualifying contributions, including any residual funding, to be used for that purpose, does not exceed the amount given by regulation 33(8) LFTR 1996.

(4) For the purpose of paragraph (3)—

- (a) “approved object” means any object that is an approved object on the day that the transitional period ends in respect of any payment to which this article does not apply, and
- (b) the proportion of the body’s total running costs that is attributable to its carrying out of approved objects is to be determined on the day that the transitional period ends.

(5) A qualifying contribution is spent for the purposes of this article if—

- (a) during the transitional period, one of the requirements specified in regulation 30(2) LFTR 1996 has been satisfied, and
- (b) in a case where regulation 30(2)(a) LFTR 1996 applies, the condition to which that sub-paragraph refers was imposed at a time prior to the making of this Order.

5.—(1) In respect of a contribution to which article 4 applies, LFTR 1996 are modified as follows.

(2) In regulation 36 (repayment of credit) in paragraph (1)(a)(i) and (ii) after “has been” insert “or will be”.

## **Saving for disposals treated as having been made after the relevant day by section 61 of FA 1996**

6. Notwithstanding the amendments made by section 31 of the Scotland Act 2012, the provisions of Part 3 of the FA 1996 shall continue to apply to disposals that are made before the day on which the transitional period commences but treated as having been made on or after that day as a result of section 61(1) of FA 1996.

### **Application**

7. The provisions of this Order have effect—
- (a) in the case of articles 2 and 3, in respect of any payment to an approved body accounted for in a return for an accounting period beginning on or after the day on which the transitional period commences, and
  - (b) otherwise, in respect of a payment or disposal made in any accounting period.

9th March 2015

*Mark Lancaster*  
*David Evennett*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes consequential amendments to the Landfill Tax Regulations 1996 (SI 1996/1527) (“LFTR 1996”), and prescribes transitional arrangements in respect of the coming into force of sections 30 and 31 of the Scotland Act 2012 (2012 c.11) (“SA 2012”); these sections provide for the dis-application of landfill tax to Scotland and the devolution of power to make provision for taxation on disposals to landfill to the Scottish Parliament.

Sections 51 and 53 of the Finance Act 1996 (1996 c.8) (“FA 1996”) together with part 7 of LFTR provide that a person liable to pay landfill tax (“the taxable person”) is entitled to credit where it pays a sum to a body (“environmental body”) and the environmental body meets specified criteria (“approved objects”).

Articles 2 and 3 of this Order amend regulation 33 of LFTR 1996 to provide that, following devolution of landfill tax, the taxable person shall only be entitled to credit where the objects of the environmental body to whom the sum is paid involve work carried out wholly or mainly in England, Wales, or Northern Ireland.

Article 4(1) and (2) establishes a transitional regime for sums paid to an environmental body carrying out work in Scotland that have not been spent at the time devolution occurs. In such cases the taxable person remains entitled to credit where the contribution is used for the purpose of carrying out work in Scotland provided that the sums are spent within 2 years of the date of the coming into force of sections 30 and 31 of SA 2012.

Article 4(3) and (4) provide that a taxable person will also remain entitled to credit where an environmental body uses contributions falling within the transitional regime, and which have not been spent by the end of that period, to pay its running costs; however this entitlement is only to the extent that the amount used for this purpose does not exceed the proportion of the body’s running costs that are attributable to its carrying out approved objects in England, Wales, or Northern Ireland.

Article 4(5) specifies the circumstances in which a contribution is treated as having been spent for the purposes of article 5 of this Order.

Article 5 amends regulation 36 of LFTR 1996, for the purposes of payments falling within the transitional regime, so that HMRC can require the repayment of credit from a taxable person in cases where they are not satisfied that the environmental body to whom it was paid will use it for an approved purpose.

Article 6 makes a saving provision so that the amendments made by section 31 of SA 2012 do not have effect in relation to taxable disposals that took place prior to the date of the coming into force of that section but which are treated as though they had in fact been made after that date in accordance with section 61 of FA 1996.

A tax impact and information note covering this instrument was published on 28 November 2014 and is available on the gov.uk website at <https://www.gov.uk/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that result from this instrument.