

Explanatory Note

(This note is not part of the Order)

This Order makes consequential amendments to the Landfill Tax Regulations 1996^(a) (“LFTR 1996”), and prescribes transitional arrangements in respect of the coming into force of sections 30 and 31 of the Scotland Act 2012^(b) (“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^(c) (“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. It remains an accurate summary of the impacts that result from this instrument.

(a) S.I. 1996/1527
(b) 2012 c.11
(c) 1996 c.8