

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

2017 No. xxxx

LANDFILL TAX, ENGLAND AND WALES

LANDFILL TAX, NORTHERN IRELAND

The Landfill Tax (Disposals of Material) Order 2017

<i>Made</i>	- - - -	***
<i>Laid before the House of Commons</i>		***
<i>Coming into force</i>	- -	***

The Treasury, in exercise of the powers conferred by sections 40A(5), (6), (7) of the Finance Act 1996(a), makes the following Order:

Citation, commencement and effect

1. This Order may be cited as the Landfill Tax (Disposals of Material) Order 2017, comes into force on [xxxxx] and has effect in relation to the disposal of material(b) (including material treated as disposed of under this Order) on or after that day.

Disposals of material

2.—(1) The material listed in paragraphs (2) and (3) is treated as disposed of for the purposes of Part 3 of the Finance Act 1996 where it would not otherwise be so treated.

(2) All material placed in a landfill cell except—

- (a) material that forms a layer which performs the function of drainage at the base of a landfill cell;
- (b) material that forms the impermeable layer that delimits the landfill cell;
- (c) a pipe, pump or associated infrastructure inserted into a landfill cell for the purposes of the extraction or control of surplus liquid or gas from or within that cell;
- (d) material used for restoration of a landfill cell that only contains inert material; and

(a) 1996 c. 8. Section 40A of the Finance Act 1996 was inserted by [section [xx] of the Finance Act 2017.] Under section 71(1) of the Finance Act 1996, any power to make an Order under Part 3 of that Act (apart from under section 57) shall be exercisable by the Treasury. Section 40 of the Finance Act 1996 was amended by the Scotland Act 2012 (c. 11), section 31, with effect from 1st April 2015 by virtue of S.I. 2015/638 (C. 35). That amendment restricts the territorial scope of the Finance Act 1996, section 40, with the effect that landfill tax is only chargeable in respect of taxable disposals made in England and Wales or Northern Ireland.

(b) “Material” is defined by section 70(1) of the Finance Act 1996.

- (e) material placed in an information area within the meaning given by regulation 16A(1) of the Landfill Tax Regulations 1996^(a).
- (3) All material placed on or under a landfill site^(b), but outside a landfill cell, and used to create or maintain—
- (a) a temporary haul road that gives access to a landfill cell;
 - (b) a temporary base on which sorting, treatment, processing, storage, recycling or any similar activity is carried out; or
 - (c) a temporary structure (whether below or above ground) put in place to protect or conceal any activity or to reduce nuisance from noise, except where the material so used is naturally occurring material extracted from the landfill site in which the structure is located.
- (4) In this article—

“impermeable layer” means any layer, liner, seal or cap that seeks to prevent the transmission of liquids or gasses;

“landfill cell” means a unit or structure in which material is placed that is delimited by an impermeable layer along its base and sides and, save where the cell only contains inert material, at the top of the unit or structure;

“relevant instrument” is a licence, permit or resolution referred to in section 66 of the Finance Act 1996 or a planning consent in respect of the land in or on which a landfill cell is situated;

“restoration” means work that is required by a relevant instrument to be carried out to restore a landfill site to use once the disposal of material in it has been concluded.

3. For the purposes of Part 3 of the Finance Act 1996, material is to be treated as not disposed of (where otherwise it would be so treated) where it has previously been treated as disposed of under article 2.

	<i>Name</i>
	<i>Name</i>
Date	Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to certain exemptions to Landfill Tax under amendments made to the Finance Act 1996 (c. 8) by section [x] of the Finance Act 2017. The Order will work in conjunction with amendments made by the Finance Act 2017. Together, these measures implement a simpler system for determining what is a ‘taxable disposal’ for the purposes of landfill tax. This Order provides for certain material to be treated as disposed of at a landfill site in specified circumstances. It will take effect immediately on the repeal of section 65A Finance Act 1996 and the consequential revocation of the Landfill Tax (Prescribed Landfill Site Activities) Order 2009 (S.I. 2009/1929).

A Tax Information and Impact Note covering this instrument was published on [xx] December 2016 and is available on the gov.uk website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>. It remains an accurate summary of the impacts that apply to this instrument.

(a) S.I. 1996/1527, inserted by S.I. 2009/1930.
 (b) Section 66 of the Finance Act 1996, specifies what is a “landfill site”.