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STATUTORY INSTRUMENTS

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**1996 No. 1527**

**The Landfill Tax Regulations 1996**

**PART IX**

**TEMPORARY DISPOSALS**

**Scope and effect**

- 38.**—(1) A disposal to which this Part applies—
- (a) shall not be treated as made at the time when apart from this Part it would be regarded as made; and
  - (b) shall be treated as having been made—
    - (i) when it is treated as being an exempt disposal by virtue of regulation 39, or
    - (ii) to the extent that it is not so treated, at the time when it is treated as having been made by virtue of regulation 40.
- (2) This Part applies to a disposal where—
- (a) an authorised person has designated an area (the designated area) for the purpose of this Part;
  - (b) material is disposed of in the designated area at a time when the designation has effect;
  - (c) the disposal is a temporary one pending all of the material being put to a qualifying use within the relevant period; and
  - (d) such other conditions as the Commissioners or an authorised person may specify for the purpose of this Part, whether generally or with regard to particular cases, are satisfied.
- (3) A designation ceases to have effect if—
- (a) notice to that effect is given in writing by the Commissioners or by an authorised person;
  - (b) any period for which the designation was to have effect by virtue of a condition specified in relation thereto expires;
  - (c) any disposal to which this Part does not apply (whether because it is not temporary or for some other reason) is made in the designated area; or
  - (d) a disposal is treated by virtue of regulation 40 as having been made at a certain time and all of the material comprised in that disposal is not removed from the designated area within seven days of that time.
- (4) A use is a qualifying use if thereby the material is—
- (a) recycled or incinerated;
  - (b) used (other than by way of a further disposal) at a place other than a relevant site; or
  - (c) sorted pending—
    - (i) its use at a place other than a relevant site, or
    - (ii) its disposal,

being a use or disposal, as the case may be, within the relevant period.

- (5) For the purposes of paragraph (4) above—
- (a) a use is not a qualifying use if it would constitute a breach of any condition relating to the use of the material to be disposed of which has been specified in relation to that designated area or generally;
  - (b) a relevant site is the landfill site at which the disposal was made or any other landfill site;
  - (c) the relevant period is the period of one year commencing with the date of the disposal or such other period as the Commissioners or an authorised person may approve or direct.

### **Disposals to be treated as exempt**

**39.**—(1) Where there is a disposal to which this Part applies and—

- (a) the material comprised in the disposal has been put to a qualifying use within the relevant period, if it would otherwise be a taxable disposal that disposal shall be treated as not being a taxable disposal (shall be treated as being an exempt disposal); but this is subject to paragraph (2) below;
- (b) some of the material comprised in a disposal has been put to a qualifying use within the relevant period (and some has not), the disposal shall be treated as being an exempt disposal to the extent of the part so dealt with and the remaining part shall be treated in accordance with regulation 40.

(2) A disposal shall not be treated as being an exempt disposal unless the landfill site operator concerned has made and, in relation to that disposal, maintained the record specified in paragraph (3) below (the temporary disposal record).

(3) The temporary disposal record mentioned in paragraph (2) above is a record, in relation to the designated area, of—

- (a) the weight and description of all material disposed of;
- (b) the intended destination of all such material and, where any material has been removed, the actual destination of that material; and
- (c) the weight and description of any material removed.

### **Disposals to be treated as made at certain times**

**40.**—(1) Where in the case of a disposal to which this Part applies the disposal is not wholly treated as being an exempt disposal it shall, to the extent that it is not so treated, be treated as having been made at the earliest of the following times—

- (a) when the relevant period has expired;
- (b) when the designation ceases to have effect;
- (c) when there has been a breach of any condition specified by the Commissioners or an authorised person;
- (d) when there has been a failure to make the temporary disposal record;
- (e) when there has been a failure to maintain the temporary disposal record;
- (f) when any of the material concerned is used (other than by way of a further disposal) at the same or another landfill site (but not in the same designated area).

(2) The reference in paragraph (1)(e) above to a failure to maintain the temporary disposal record is a reference to an omission to enter in a record that has been made the information specified in regulation 39(3) in relation to any disposal made after the record was made.