
STATUTORY INSTRUMENTS

1996 No. 1527

The Landfill Tax Regulations 1996

PART VII

CREDIT: BODIES CONCERNED WITH THE ENVIRONMENT

Interpretation and general provisions

30.—(1) In this Part—

“approved body” means a body approved for the time being under regulation 34;

“approved object” has the meaning given in regulation 33;

“income” includes interest;

“qualifying contribution” has the meaning given in regulation 32;

“the regulatory body” means such body, if any, as in relation to which an approval of the Commissioners under regulation 35 has effect for the time being;

“running costs” includes any cost incurred in connection with the management and administration of a body or its assets.

(2) A body shall only be taken to spend a qualifying contribution in the course or furtherance of its approved objects—

(a) in a case where the contribution is made subject to a condition that it may only be invested for the purpose of generating income, where the body so spends all of that income;

(b) in a case not falling within sub-paragraph (a) above, where the body becomes entitled to income, where it so spends both the whole of the qualifying contribution and all of that income;

(c) in a case not falling within either of sub-paragraphs (a) and (b) above, where the body so spends the whole of the qualifying contribution; or

(d) where—

(i) it transfers any qualifying contribution or income derived therefrom to another approved body, and

(ii) that transfer is subject to a condition that the sum transferred shall be spent only in the course or furtherance of that other body’s approved objects.

(3) Any approval, or revocation of such approval, by the Commissioners or the regulatory body shall be given by notice in writing to the body affected and shall take effect from the date the notice is given or such later date as the Commissioners or, as the case may be, the regulatory body may specify in it.

Entitlement to credit

31.—(1) Subject to the following provisions of this regulation, an entitlement to credit arises under this Part in respect of qualifying contributions made by registered persons.

(2) Subject to paragraph (3) below, a person shall be entitled to credit in respect of 90 per cent. of the amount of each qualifying contribution made by him in any accounting period; and for this purpose a qualifying contribution made—

- (a) in the first accounting period following the end of a contribution year;
- (b) before the return for the previous accounting period has been made; and
- (c) before the period within which that return is required to be made has expired,

shall be treated as having been made in the accounting period mentioned in sub-paragraph (b) above (and not in the accounting period in which it was in fact made).

(3) In respect of the qualifying contributions made in each contribution year, a person shall not be entitled to credit of an amount greater than 20 per cent. of his relevant tax liability.

(4) For the purpose of paragraphs (2) and (3) above the contribution year of a person is his first contribution year and each period of 12 months ending on the anniversary of the end of his first contribution year; but this is subject to paragraph (6) below.

(5) The reference in paragraph (4) above to the first contribution year of a person is a reference to—

- (a) the period of 12 months beginning with his effective date of registration; or
- (b) where that period of 12 months does not end on the last day of an accounting period, the period beginning with his effective date of registration and ending on the last day of the accounting period in which the 12 month period ends.

(6) Where—

- (a) the Commissioners vary the length of a person's accounting period under regulation 11(3);
- (b) as a consequence of the variation the end of any contribution year of his other than the first contribution year would not coincide with the end of an accounting period,

the contribution year thus affected shall end on the same day as the end of the accounting period in which that contribution year would apart from this regulation end; and each of the person's subsequent contribution years shall end on the anniversary of the end of that contribution year (subject to any subsequent application of this paragraph).

(7) Subject to paragraphs (8) and (10) below, the reference in paragraph (3) above to the relevant tax liability of a person is a reference to the aggregate of—

- (a) the tax payable by him, if any, in respect of the accounting period in relation to which that liability falls to be determined; and
- (b) the tax payable by him, if any, in respect of any earlier accounting period or periods which fall within the same contribution year as that accounting period;

and where in respect of any accounting period he is entitled to a payment under regulation 20 the aggregate of the tax payable by him in respect of the accounting periods mentioned in sub-paragraphs (a) and (b) above shall be reduced by the amount of that payment.

(8) Where paragraph (5)(b) above applies so that the first contribution year of a person exceeds 12 months his relevant tax liability for that contribution year shall be taken to be such amount as is found by multiplying the tax payable by him in respect of that accounting period by a fraction the numerator of which is 12 and the denominator of which is the number of months comprised in the period.

(9) For the purpose of determining the number of months comprised in an accounting period as described in paragraph (8) above—

- (a) if the period does not begin on the first day of a month, it shall be taken to begin on the nearest first day of a month;

- (b) if the period does not end on the last day of a month, it shall be taken to end on the nearest last day of a month;
- (c) if the period begins or ends on the sixteenth day of a month comprising thirty-one days, it shall be taken to begin on the first day of the following month or, as the case may be, end on the last day of the preceding month;
- (d) if the period begins or ends on the fifteenth day of February when it contains twenty-nine days, it shall be taken to begin on the first day of March or, as the case may be, end on the last day of January.

(10) For the purposes of paragraphs (7) and (8) above any entitlement to credit arising under this Part shall be disregarded in determining the tax payable by a person in respect of any period.

Qualifying contributions

32.—(1) A payment is a qualifying contribution if—

- (a) it is made by a registered person to an approved body;
- (b) it is made subject to a condition that the body shall spend the sum paid or any income derived from it or both only in the course or furtherance of its approved objects;
- (c) the requirements of paragraph (2) below have been complied with in relation to that payment; and
- (d) it is not repaid to him in the same accounting period as that in which it was made.

(2) A person claiming credit arising under this Part shall make a record containing the following information—

- (a) the amount and date of each payment he has made to an approved body;
- (b) the name and enrolment number of that body.

(3) Where any qualifying contribution or income derived therefrom is transferred to a body as described in regulation 30(2)(d)—

- (a) the body to whom the sum is transferred shall be treated for the purposes of this Part as having received qualifying contributions of that amount; and
- (b) that body shall be treated accordingly as having received qualifying contributions from the person or persons from whom the body making the transfer in fact received them (but this shall not give rise to any further entitlement to credit in respect of those contributions).

Bodies eligible for approval

33.—(1) A body is within this regulation if—

- (a) it is—
 - (i) a body corporate, or
 - (ii) a trust, partnership or other unincorporated body;
- (b) its objects are or include any of the objects within paragraph (2) below (approved objects);
- (c) it is precluded from distributing and does not distribute any profit it makes or other income it receives;
- (d) it applies any profit or other income to the furtherance of its objects (whether or not approved objects);
- (e) it is precluded from applying any of its funds for the benefit of any of the persons who have made qualifying contributions to it, except that such persons may benefit where they belong to a class of persons that benefits generally; and

- (f) it is not controlled by one or more—
 - (i) local authorities,
 - (ii) bodies corporate controlled by one or more local authorities, or
 - (iii) registered persons.
- (2) The objects of a body are approved objects insofar as they are any of the following objects—
 - (a) in relation to any land the use of which for any economic, social or environmental purpose has been prevented or restricted because of the carrying on of an activity on the land which has ceased—
 - (i) reclamation, remediation or restoration; or
 - (ii) any other operation intended to facilitate economic, social or environmental use;
 but this is subject to paragraph (3) below;
 - (b) in relation to any land the condition of which, by reason of the carrying on of an activity on the land which has ceased, is such that pollution (whether of that land or not) is being or may be caused—
 - (i) any operation intended to prevent or reduce any potential for pollution; or
 - (ii) any operation intended to remedy or mitigate the effects of any pollution that has been caused,
 but this is subject to paragraph (3) below;
 - (c) for the purpose of encouraging the use of more sustainable waste management practices—
 - (i) research and development;
 - (ii) education; or
 - (iii) collection and dissemination of information about waste management practices generally;
 - (d) where it is for the protection of the environment, the provision, maintenance or improvement of—
 - (i) a public park; or
 - (ii) another public amenity,
 in the vicinity of a landfill site, provided the conditions in paragraph (6) below are satisfied;
 - (e) where it is for the protection of the environment, the maintenance, repair or restoration of a building or other structure which—
 - (i) is a place of religious worship or of historic or architectural interest,
 - (ii) is open to the public, and
 - (iii) is situated in the vicinity of a landfill site,
 provided the conditions in paragraph (6) below are satisfied;
 - (f) the provision of financial, administration and other similar services to bodies which are within this regulation and only such bodies.
- (3) An object shall not be, or shall no longer be, regarded as falling within paragraph (2)(a) or (b) above if the reclamation, remediation, restoration or other operation—
 - (a) is such that any benefit from it will accrue to any person who has carried out or knowingly permitted the activity which has ceased;
 - (b) involves works which are required to be carried out by a notice or order within paragraph (4) below; or
 - (c) is wholly or partly required to be carried out by a relevant condition.

- (4) The notices and order mentioned in paragraph (3) above are—
- (a) a works notice served under section 46A of the Control of Pollution Act 1974⁽¹⁾;
 - (b) an enforcement notice served under section 13 of the Environmental Protection Act 1990⁽²⁾;
 - (c) a prohibition notice served under section 14 of the Environmental Protection Act 1990;
 - (d) an order under section 26 of the Environmental Protection Act 1990;
 - (e) a remediation notice served under section 78E of the Environmental Protection Act 1990⁽³⁾;
 - (f) an enforcement notice served under section 90B of the Water Resources Act 1991⁽⁴⁾;
 - (g) a works notice served under section 161A of the Water Resources Act 1991⁽⁵⁾;
- (5) In paragraph (2)(c) above “waste management practices” includes waste minimisation, minimisation of pollution and harm from waste, reuse of waste, waste recovery activities and the clearing of pollutants from contaminated land.
- (6) The conditions mentioned in sub-paragraphs (d) and (e) of paragraph (2) above are—
- (a) in a case falling within sub-paragraph (d), that the provision of the park or amenity is not required by a relevant condition; and
 - (b) in a case falling within either of those sub-paragraphs, that the park, amenity, building or structure (as the case may be) is not to be operated with a view to profit.
- (7) Where the objects of a body are or include any of the objects set out in paragraph (2) above, the following shall also be regarded as objects within that paragraph—
- (a) the use of qualifying contributions in paying the running costs of the body, but this is subject to paragraph (8) below;
 - (b) where the regulatory body has made the approval of the body subject to a condition to that effect, the use of qualifying contributions in paying a contribution to the running costs of the regulatory body.
- (8) The use of qualifying contributions in paying the running costs of the body shall only be regarded as an approved object if the body determines so to use no more than such proportion of the total of qualifying contributions, together with any income derived from them, (or, in the case of a contribution within regulation 30(2)(a), only that income) as the proportion of that total forms of the total funds at its disposal and does not in fact use a greater amount.
- (9) For the purposes of paragraph (1) above a local authority, body corporate or registered person (in each case, “the person”) shall be taken to control a body where—
- (a) in the case of a body which is a body corporate, the person is empowered by statute to control that body’s activities or if he is that body’s holding company within the meaning of section 736 of the Companies Act 1985⁽⁶⁾, and an individual shall be taken to control a body corporate if he, were he a company, would be that body’s holding company within the meaning of that Act;
 - (b) in the case of a body which is a trust or a partnership, where—
 - (i) the person, taken together with any nominee of his, or

(1) 1974 c. 40; section 46A was inserted by section 120 of, and Schedule 22 to, the Environment Act 1995 (c. 25).

(2) 1990 c. 43.

(3) 1990 c. 43; section 78E was inserted by section 57 of the Environment Act 1995.

(4) 1991 c. 57; section 90B was inserted by section 120 of, and Schedule 22 to, the Environment Act 1995.

(5) 1991 c. 57; section 161A was inserted by section 120 of, and Schedule 22 to, the Environment Act 1995 (c. 25).

(6) 1985 c. 6.

- (ii) any nominee of the person, taken together with any nominee of that nominee or any other nominee of the person, forms a majority of the total number of trustees or partners, as the case may be;
- (c) in the case of any other body, where the person, whether directly or through any nominee, has the power—
 - (i) to appoint or remove any officer of the body;
 - (ii) to determine the objects of the body;
 - (iii) to determine how any of the body’s funds may be applied.
- (10) For the purposes of paragraphs (3) and (6) above a condition is relevant if it is—
 - (a) a condition of any planning permission or other statutory consent or approval granted on the application of any person making a qualifying contribution to the body, or
 - (b) a term of an agreement made under section 106 of the Town and Country Planning Act 1990(7) to which such a person is a party.

Functions of the regulatory body

- 34.—**(1) The regulatory body—
- (a) may approve a body which is within regulation 33;
 - (b) may require any person applying for approval to pay an application fee;
 - (c) without prejudice to the generality of sub-paragraph (d) below, may require approved bodies to pay a contribution to the running costs of the regulatory body and such contribution may be required to be paid periodically;
 - (d) may, either at the time of granting the approval or subsequently, make the approval subject to such conditions as it thinks fit, including conditions relating to the records and accounts the body shall keep;
 - (e) may revoke the approval;
 - (f) shall maintain a roll of bodies which it has approved;
 - (g) shall allocate an identifying number (the enrolment number) to each such body;
 - (h) shall remove from the roll any body whose approval it has revoked;
 - (i) shall satisfy itself, by reference to such records or other documents or information it thinks fit, that the qualifying contributions received by the body have been spent by it only in the course or furtherance of its approved objects; and
 - (j) shall publish information regarding which bodies it has approved and which approvals it has revoked.
- (2) Where—
- (a) the Commissioners revoke their approval of the regulatory body without approving another body with effect from the day after the revocation takes effect; and
 - (b) they have not given notice in writing to each body which has been enrolled (and which has not been removed from the roll), no later than the date such revocation takes effect, that they will not be performing any of the functions specified in paragraph (1) above,
- the approval of all such bodies shall be deemed to have been revoked on the day the Commissioners revoked their approval.

Functions of the Commissioners

35.—(1) The Commissioners—

- (a) may approve a body for the purposes of this Part;
- (b) may, either at the time of granting the approval or subsequently, make the approval subject to such conditions as they think fit;
- (c) may revoke the approval;
- (d) shall not approve a body without first revoking the approval for any other body with effect from a time earlier than that for which the new approval is to take effect;
- (e) for any time as regards which no approval has effect, may perform any of the functions specified in regulation 34(1);
- (f) may disclose to the body information which relates to the tax affairs of registered persons and which is relevant to the credit scheme established by this Part; and
- (g) having regard to any information received from the body, may serve notices under regulation 36.

(2) Without prejudice to the generality of paragraph (1)(c) above, the Commissioners may revoke their approval of a body where it appears to them—

- (a) that the body is in breach of any condition imposed under paragraph (1)(b) above; or
- (b) that it is necessary to do so for the proper operation of the credit scheme established by this Part.

Repayment of credit

36.—(1) Where a person has benefited from an amount of credit to which he was entitled under this Part and the Commissioners serve upon him a notice in relation to a qualifying contribution paid to an approved body—

- (a) specifying that—
 - (i) they are not satisfied that the contribution has been spent by the body only in the course or furtherance of its approved objects; or
 - (ii) they are not satisfied that any income derived from the contribution has been so spent by the body;
- (b) specifying a breach of a condition to which the approval of the body was made subject and which occurred before the contribution was spent by the body; or
- (c) specifying that—
 - (i) the approval of the body has been revoked; and
 - (ii) the contribution had not been spent by the body before that revocation took effect,he shall repay to the Commissioners the credit claimed in respect of the qualifying contribution.

(2) For the purpose of paragraph (1) above where—

- (a) repayment is required in relation to credit that has been claimed in respect of more than one qualifying contribution in an accounting period; and
- (b) regulation 31(3) applied so that the amount of credit was restricted,

the person shall be deemed to have claimed credit in respect of such proportion of each contribution made in that accounting period as the total credit claimed in accordance with that regulation forms of the total of the contributions made.

(3) Where—

- (a) a person has benefited from an amount of credit to which he was entitled under this Part; and
 - (b) the whole or a part of the qualifying contribution in respect of which the entitlement to credit arose has been repaid to him,
- he shall pay to the Commissioners an amount equal to 90 per cent. of the amount repaid to him.
- (4) Paragraph (5) below applies where—
- (a) a person has benefited from an amount of credit to which he was entitled under this Part; and
 - (b) he is entitled to a payment under regulation 20 in respect of a later accounting period in the same contribution year as the accounting period in respect of which that credit was claimed.
- (5) Where this paragraph applies the person shall pay to the Commissioners an amount equal to the difference between—
- (a) the aggregate of—
 - (i) the amount of the credit from which he has benefited, and
 - (ii) any other amounts of credit arising under this Part which he is or was entitled to claim,
 in respect of that contribution year; and
 - (b) the amount of credit which he would have been entitled to claim if he had in fact claimed the aggregate amount mentioned in sub-paragraph (a) above in the return for the accounting period in respect of which he was entitled to the payment under regulation 20.
- (6) Where—
- (a) a person has benefited from an amount of credit to which he was entitled under this Part;
 - (b) he acquires an asset from a body to which he has made a qualifying contribution for—
 - (i) no consideration, or
 - (ii) a consideration which is less than the open market value of the asset,
 he shall pay to the Commissioners an amount equal to 90 per cent. of the amount by which the open market value exceeds the consideration; but this is subject to paragraph (7) below.
- (7) A person required to pay an amount to the Commissioners by paragraph (6) above—
- (a) shall not be required to pay more than the total amount of relevant credit;
 - (b) shall not be entitled to claim any further amounts of credit in respect of qualifying contributions made by him to the body in question on or after the date on which he acquired the asset.
- (8) For the purposes of paragraphs (6) and (7) above—
- (a) “asset” includes land, goods or services and any interest in any of these;
 - (b) the open market value of an asset is the amount of the consideration in money that would be payable for the asset by a person standing in no such relationship with any person as would affect that consideration;
 - (c) “relevant credit” means credit arising under this Part—
 - (i) from which a person has benefited, and
 - (ii) which has arisen in respect of qualifying contributions made by him to the body in question or treated by virtue of regulation 32(3) as having been received by that body from him.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
