

# THE SCOTTISH LANDFILL TAX (QUALIFYING MATERIAL) ORDER 2016 (“QMO 2016”)

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## UNITED RESOURCE OPERATORS CONSORTIUM LIMITED (“UROC”) Response to Consultation Paper – July 2016

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### 1. Name/Organisation

Organisation Name (Leave blank if responding as an individual)

UROC

Main business activities of organisation

Trade Association - representing independent operators

Title Mr  Ms  Mrs  Miss  Dr  other

Surname

Watts

Forename

Jennifer

### 2. Postal Address

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Phone 0333 577 4777

Email network@uroc.org.uk

3. Permissions - I am responding as...

Individual  / Group/Organisation   
Please tick

(a) Do you agree to your response being made available to the public (on the Revenue Scotland website)?

Yes  No

(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

**Please tick ONE of the following boxes**

Yes, make my response, name and address all available

Yes, make my response available, but not my name and address

Yes, make my response and name available, but not my address

(c) The name and address of your organisation **will be** made available to the public (on the Revenue Scotland website).

Are you content for your **response** to be made available?

Yes  No

(d) Are you content for Revenue Scotland to contact you again in relation to this or any similar consultation exercises?

Yes  No

4. Revenue Scotland tries to operate to Adam Smith's principle of certainty for the tax payer about their tax liability. How easy will it be to be sure of the tax due on each load of waste fines disposed of to landfill under the new guidance?

Comments: The new Guidance is sufficient save for the comments provided below.

5. Part 8 of the guidance on Lol test methodology includes instruction to use a sample size of 5g. This sample size has been chosen because a larger one could risk incomplete combustion and therefore affect the Lol result.

Do you agree that specifying a sample size of 5g will lead to fair and consistent Lol test results?

Comments: We do not agree with the sample size or the suggestion that a larger sample could risk incomplete combustion. The SLfT Guidance simulates HMRC Guidance LFT1 (as applicable in England) and we believe that for consistency throughout the UK the same sample size of 20g should be adopted as expressed in LFT1.

The average size of a load is approximately 20 tonnes, in order for the sample to be representative we believe that the sample size should be as large as practicably possible.

There is ongoing work in respect of the methodology that we understand the Environment Agency is undertaking and we are involved with empirical work that is being conducted by industry in England, in relation to the accuracy of results obtained. We believe there are inherent issues in relation to the test and its reproducibility.

We request that Revenue Scotland makes a commitment to engage with industry in light of research that is being done and to review the test methodology at an appropriate juncture.

6. The frequency of testing table at part 12 of the guidance explains how certain indicators should be used to determine how frequently Lol tests should be carried out on waste fine streams.

Do you agree that the table supports a fair and consistent approach to the classification of waste?

Comments: We believe the proposed testing frequency is overburdensome and could lead to excessive costs (incurred by landfill operators and passed on to mechanical treatment operators and their customers). HMRC devised the risk banding model and is currently inviting informal comments in respect of it. We have proposed the following:

1. "low risk" band should be amended to state 1 in the last 20 LOI results is above the LOI threshold.
2. "medium risk" band should be amended to state 2 in the last 20 LOI results are above the LOI threshold.
3. "high risk" band should be amended to state 3 in the last 20 LOI results are above the LOI threshold.

We request the Revenue Scotland engages with industry and HMRC in order to reach a final agreement in respect of test frequency which should then be adopted throughout the UK to ensure consistency taking into account proportionality and reasonableness.

7. Do you have any other comments you would like to make about this guidance?

Yes  No

If you ticked 'yes', please provide your comments or suggestions:

Comments:

**Loss on Ignition (LOI) Test for Fines:** Paragraph 3 of this section conflicts with paragraph 2 in that it states at para 2:

"LOI result of 10% or under"

and para 3 states

"LOI test results that are below 10% LOI"

We suggest changing para 3 to state the same as para 2.

**Power to Direct a Test:** We believe this should be qualified in respect of how RS will apply tax should the sample in question fail (either from the landfill operator's laboratory or from RS laboratory of choice). This paragraph as it stands does not indicate if the higher rate will apply to the specific load of material from where the sample originated or if there will be a retrospective application of higher rate on all

loads since that material stream was last tested and / or any additional inputs between the load being directed for a test and the results of that test being returned. Further, it is not clear whether RS will take a sample from any one particular load, for example, so that it can be traced to a particular mechanical treatment operator that the landfill operator will presumably apply the tax.

**Flow Chart:** the threshold of 10% should read “returning a result of 10% or less” and not “returning a result of less than 10%” – this was agreed at the Focus Group meeting held on 16<sup>th</sup> June 2016.

**Pre-Acceptance Questionnaire:** At point 2 the question states, “EWC Codes and Geographical origin for each input waste stream - The EWC codes and location of where the waste fines have come from”. This was discussed at great length at the Focus Group meeting and RS confirmed that it was restricted to the ‘location’ of the mechanical treatment operators site address and not, as the question implies, the geographical location of all the waste inputs into a particular site. It would be impracticable for mechanical treatment operators to provide this information and would be unreasonable to expect this information to be furnished, not only because it would be excessively time consuming and therefore costly, but also because the data would be commercially sensitive. We do not believe it is the intention of Revenue Scotland to require such information, especially in light of the clarification that was sought and given during the meeting. We therefore, request that this question is refined to specify, “The EWC codes and location of the mechanical treatment operator site that produce the waste fines”.

“Approximate” should be inserted before – “tonnage of fines waste stream to be sent to landfill per annum”, so as to prevent any potential penalty should there be more or less waste fines sent to landfill in any given year.

**Loss on Ignition Test Result Form:** The issue in relation to ‘Geographic origin’ appears again at point 4 under the title ‘Waste stream’. This should be limited to mechanical operators site address, for reasons detailed above.

**Approved Code of Practice, Training, Assessment and Accreditation:** We are developing a Code of Practice working alongside the Waste Management Industry Training and Advisory Board (“WAMITAB”) to introduce accredited training and assessment to determine mechanical treatment operators understanding and implementation of the regime into their working practices, systems and procedures. Revenue Scotland along with HMRC and the Welsh Government has indicated its support for a standard protocol that supports the sector. We respectfully request that Revenue Scotland works with us to ensure that the standard is fit for purpose and is endorsed as a recognised standard for mechanical treatment operators. We believe this will assist in terms of compliance and provide a level of comfort for the industry in the adoption of the regime.