Order made by the Treasury, laid before the House of Commons under section 71(4) of the Finance Act 1996 (c.8), for approval by resolution of that House before the expiration of a period of 28 days beginning with the date on which it was made, no account to be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.

STATUTORY INSTRUMENTS

2015 No. 845

LANDFILL TAX, ENGLAND AND WALES
LANDFILL TAX, NORTHERN IRELAND

The Landfill Tax (Qualifying Fines) Order 2015

Made - - - -	*26th March 2015*
Laid before the House of Commons - - - -	*27th March 2015*
Coming into force - -	*1st April 2015*

The Treasury, in exercise of the powers conferred by sections 42(3A) and (3B) and 63A(2) to (5) of the Finance Act 1996(**1**), make the following Order:

Citation and commencement

1. This Order may be cited as the Landfill Tax (Qualifying Fines) Order 2015 and comes into force on 1st April 2015.

Interpretation

2. In this Order—

"hazardous waste" means any hazardous waste within the meaning of European Parliament and Council Directive 2008/98/EC(**2**);

"LOI percentage" means the amount of non-qualifying material contained in fines(**3**), as indicated by the percentage of the mass of those fines lost on ignition;

(**1**) 1996 c.8; sections 42(3A), 42(3B) and 63A were inserted into the Finance Act 1996 by section 65 of, and paragraphs 2 and 4 of Schedule 15 to, the Finance Act 2015 (c. 11). Under paragraph 8 of Schedule 15 to the Finance Act 2015, these amendments to the Finance Act 1996 have effect in relation to disposals that are made in England and Wales or Northern Ireland and made (or treated as made) on or after 1st April 2015.

(**2**) OJ No L 312, 22.11.08, p. 3. This Directive has been amended by Commission Regulation (EU) No 1357/2014, OJ No L 365, 19.12.14, p. 89.

(**3**) Section 70(1) of the Finance Act 1996 defines "fines" as particles produced by a waste treatment process that involves an element of mechanical treatment.

"LOI test" means a test to determine the LOI percentage of fines, conducted in accordance with the terms of a published notice;

"published notice" refers to a notice issued by the Commissioners(**4**) and not revoked by a further notice;

"qualifying material" means the materials and descriptions listed in columns 1 and 2, subject to the conditions expressed in column 3, of the Schedule to the Landfill Tax (Qualifying Material) Order 2011(**5**);

"non-qualifying material" means any material other than qualifying material;

"transfer note" means written information or a transfer note within the meaning of—

(a) the Waste (England and Wales) Regulations 2011(**6**), where the transferor of material to a landfill site is a person in England and Wales;

(b) the Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002(**7**), where the transferor of material to a landfill site is a person in Northern Ireland;

(c) the Environmental Protection (Duty of Care) (Scotland) Regulations 2014(**8**), where the transferor of material to a landfill site is a person in Scotland.

Qualifying fines

3.—(1) Subject to paragraphs (2) and (3), and to article 4, any qualifying material is prescribed for the purposes of section 42(3A)(a) of the Finance Act 1996.

(2) The mixture mentioned in that section must—

(a) contain no more than an incidental amount of non-qualifying material; and

(b) not be hazardous waste.

(3) That mixture must not result from any deliberate or artificial blending or mixing with any quantity of material (including fines), prior to disposal at a landfill site.

Conditions applicable to qualifying fines

4.—(1) The fines contained in any quantity of material received by a registrable person(**9**) for disposal must not be treated as qualifying fines unless all of the following conditions are met—

(a) where the owner of the fines immediately prior to the disposal and the registrable person are not the same person, the registrable person holds a transfer note in respect of that quantity of material;

(b) the registrable person holds such evidence as is specified in a published notice that the fines are qualifying fines;

(c) where a LOI test has been conducted on any part of the fines in accordance with any published notice, the LOI percentage determined by that test does not exceed—

(i) if the fines tested were disposed of or treated as disposed of prior to 1st April 2016, 15%; or

(**4**) Section 70(1) of the Finance Act 1996 defines "the Commissioners" as those of Customs and Excise for the purposes of Part 3 of that Act. The functions of the Commissioners of Customs and Excise were transferred to the Commissioners for Her Majesty's Revenue and Customs by section 5(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of the latter Act provides that a reference to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(**5**) S.I. 2011/1017, amended by S.I. 2012/940.

(**6**) S.I. 2011/988, amended by S.I. 2014/656; there are other amending instruments, but none is relevant.

(**7**) S.R. (NI) 2002 No. 271, amended by S.R. (NI) 2004 No. 277 and S.R. (NI) 2013 No. 255.

(**8**) S.S.I. 2014/4.

(**9**) Section 47(10) of the Finance Act 1996 defines a registrable person as a person who is, or is liable to be, registered under that section.