

## CONSULTATION ON PROPOSED CHANGES TO THE LANDFILL TAX REGULATIONS (LTR)

### 1 Introduction

1.1 Following the recommendations of the Better Regulation Executive (BRE) and the Hampton Review (<http://www.hm-treasury.gov.uk/index.cfm>) ENTRUST as the regulator of the Landfill Communities Fund (LCF) has been working closely with HMRC to review the operation of the LTRs. The aim of this exercise is to consider ways in which the LTRs can be simplified and the regulatory administrative burden on organisations reduced.

1.2 Additional copies of this document can be downloaded from ENTRUST's web site [www.entrust.org.uk/consultations](http://www.entrust.org.uk/consultations). Other versions for individuals who are visually impaired are available on request from ENTRUST.

1.3 In developing the proposals in this document, full account has been taken of the BRE's "Administrative Burden – Routes to reduction" ([www.brc.gov.uk](http://www.brc.gov.uk)). This report contains recommendations on the 'Alternatives to Regulation – being creative in the way regulatory objectives are achieved'.

1.4 As the regulator, ENTRUST is observing the five principles of good regulation which are:

- **Proportional** - regulations must be appropriate to the risk they aim to address;
- **Accountable** - regulators must be able to justify their decisions;
- **Consistent** - rules and standards must be consistent and fairly applied;
- **Transparent** - regulators should be open and keep regulations simple and user-friendly; and
- **Targeted** - regulation should be focused on the problem and minimise the side effects.

### 2 Content of the consultation

2.1 This consultation document will consider a number of areas, where the regulator and HMRC considers that the regulations can be simplified and amended to reduce the administrative burden on Environmental Bodies (EBs). These include:

- Object C/CC monies and their use;
- Improvements to ENTRUST Forms 3,4 and 7;
- Annual financial return and the length of time for submission;
- Six monthly reporting of income and expenditure;
- A single date to submit financial information to the regulator;
- Removal of project start and complete – Form 6;

- Reporting a change in director of the EBs Board; and
- The submission of annual accounts

### **3 The reasons for this consultation and its contents**

3.1 The Government removed objects C/CC in April 2003 and gave the LCF new objectives. ENTRUST and HMRC have an agreed policy in place that no further object C/CC (waste) projects will be registered. This was introduced in the reporting year 2004/05 and remains effective from October 2005. We are now interested in seeking stakeholders views on this area.

3.2 ENTRUST and HMRC have also been reviewing several key areas of the administrative burden the LTR places upon EBs. Significant improvements are proposed that lift this burden for all EBs without removing the need for EBs to demonstrate compliance or the removal of ENTRUSTs ability to apportion risk.

### **4 Future Consultations**

4.1 This consultation exercise is the first in a number of policy reviews, which the regulator will be commencing in the next financial year. In taking this initiative forward, the regulator would like to establish focus groups to work with organisations to help develop future policies. There is an opportunity within Appendix B to advise us if you would like to be involved in one of these groups.

### **5 Your views**

5.1 We would very much welcome your views on the following proposed changes. It would be appreciated if you could limit your views to these areas detailed in the paper, as we will be consulting on other areas of the LTR in the future. There is an opportunity at the end of this document to inform us about those areas of the LTR, which you would like to be consulted upon in the future.

### **6 Submissions**

6.1 As part of the transparency process in undertaking this exercise, respondees are asked to complete a covering sheet, which is attached at Appendix A when submitting their return. Returns (pages 3 – 10) can be submitted either by post in the enclosed stamped addressed envelope, or can be emailed to [information@entrust.org.uk](mailto:information@entrust.org.uk)

### **7 Timing**

7.1 The normal timing for any consultation exercise is 12 weeks. However due to the requirement to collate, analyse and recommend changes in order to make regulatory changes prior to the beginning of the next financial year, this exercise will last until Friday 15<sup>th</sup> December. Please ensure this document is returned by this date.

### **8 Publication**

8.1 ENTRUST will publish response to this consultation on its website at: <http://www.entrust.org.uk/consultations/main.asp>.

**9. C&CC Projects**

9.1 HMRC intend to announce a date from which no LCF money can be allocated to object C&CC unless there is an existing project requiring staged payment to complete it, or a declared commitment by an EB to fund it to completion.

9.2 Precise details have not been agreed and will be formally announced by HMRC to all stakeholders, including landfill site operators, at the appropriate time. In the meantime, we need to understand the impact on your EB. Therefore, could you please provide details of:

**9.3 Value held**

The value of any contributions (and the income derived from them) you currently hold made by the contributing Landfill Site Operators (directly or by transfer from another EB) expressly donated for C&CC registered projects.

£

**9.4 Value Committed**

The total value of the funds that is either committed to existing C/CC projects or formally earmarked for an identified C&CC registered project, which has not yet started.

£

**9.5 Conditions of use**

An indication, if possible, of whether your contributing Landfill Site Operator (LSO) or transferring EB would not object to the contribution that was originally made and allocated to object C&CC, now being used on the current approved objects (i.e. not C/CC).

Yes     No

Please feel free to add further comments on the above:

**9.6 Possible Impacts**

Do you envisage any impacts on your EB of a decision to prohibit the use of the contributions that have not been committed under questions 1 and 2 above?

## 10. Forms

10.1 ENTRUST aims to reduce the administrative burden of the forms its uses to collect information from EBs. This will be achieved by reviewing, reducing and removing burdens wherever they exist, either through merging regulations into a more manageable form or removing inconsistency within or between regulations.

10.2 We anticipate the benefits of this approach to be threefold:

- Lower administrative cost e.g. the time taken to fill in forms or the time taken to meet requests for information from the regulator;
- Simpler and more user friendly guidance; and
- Fewer deadlines and legal requirements. ENTRUST has reviewed the regulations and the forms and has the following proposals.

### Form 3 – Notification of receipt of a contribution

Do you have difficulty in completing Form 3 (Donations received from an LO) accurately and on time? If so, please explain why and suggest how it could be improved.

### Form 4 – EB Return of Income and Expenditure

Do you have difficulty in completing Form 4 (Annual Financial Return) accurately and on time? If so, please explain why and suggest how they might be improved.

### Form 4 – Six Monthly Reporting of Income and Expenditure

<b>The Proposal For Removal or Reduction</b>
Remove the six monthly reporting requirements on EBs whose income is over £100,000 in the preceding six months.
<b>The Current Situation in Reporting to ENTRUST</b>
All EB that receive more than £100,000 of landfill tax money in the first six months of their enrolment year or any financial year must send in Form 4 within 14 days of the end of that six month period. The completed returns should show how much was actually received and spent in the six-month period. The next return will be due at the end of the relevant financial year.
<b>The Proposed Situation in Reporting to ENTRUST</b>
All EBs will submit one Annual Financial Return to ENTRUST each year. ENTRUST Online can be used to create the records ready for submission and can be updated at any time within that financial period and before submission.
<b>Benefits</b>
This will be a significant reduction of the administrative burden on EBs with an income of more than £100,000 in the qualifying periods. The records that currently generate

the six monthly returns will still need to be kept and produced on request from ENTRUST.
<b>Do you agree with this proposal?</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please feel free to add further comments on the above:</b>

**Form 4 – A Single date to submit financial information to the regulator**

<b>The Proposal For Removal or Reduction</b>
Introduce one common reporting year-end of March 31 <sup>st</sup> for all EBs across the LCF.
<b>The Current Situation in Reporting to ENTRUST</b>
EBs year end dates are different with many falling outside a common year end (March 31 <sup>st</sup> ). In April 2005 HMRC introduced a common year end for all Landfill Operators of March 31 <sup>st</sup> and this creates issues within reconciling income and expenditure against an EBs where the year-end dates are different. This also creates issues in reporting accurate data for statistical analysis and reporting to Government.
<b>The Proposed Situation in Reporting to ENTRUST</b>
All EBs would be required to change their reporting year-end to the 31 <sup>st</sup> March.
<b>Benefits</b>
This proposal would enable EBs, LO's, HMRC and the regulator's records to reconcile and it also aids simplicity and transparency in reporting to Government.
<b>Do you agree with this proposal?</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please feel free to add further comments on the above:</b>

**Form 4 – The length of time for submission**

<b>The Proposal For Removal or Reduction</b>
Annual Return. Amount of time for submission.
<b>The Current Situation in Reporting to ENTRUST</b>
All EBs are legally obligated to submit a financial annual return (Form 4) to the regulator within 14 days of their financial year-end. Many EBs find this time constraint difficult to achieve causing recorded compliance issues and raising their risk profile.
<b>The Proposed Situation in Reporting to ENTRUST</b>
All EBs will be legally obligated to submit a financial annual return (Form 4) to ENTRUST by 30 <sup>th</sup> April each year.
<b>Benefits</b>
A simple extension of the timeframe for submission will enable all EBs to meet this legislative requirement.
<b>Do you agree with this proposal?</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please feel free to add further comments on the above:</b>

**Form 6 – Project Start & Complete**

<b>The Proposal For Removal or Reduction</b>
Remove the requirement on EB to submit ‘Form 6 - Project Start’ & ‘Form 6 – Project Complete’.
<b>The current situation in reporting to ENTRUST</b>
So that projects can be monitored and inspected, EB are asked to inform ENTRUST when expenditure on their projects starts and finishes. Form 6 <i>Project starts and completions</i> is used to notify ENTRUST within 7 days of (a) landfill tax money starting to be spent, and (b) the last payment being made.
<b>The proposed situation in reporting to ENTRUST</b>
The records of projects starting and completing will be submitted once a year via the ‘Form 4 – EB Return of Income & Expenditure’. EBs should keep and maintain a constant and accurate record of the start and completion of LCF expenditure that is available to ENTRUST upon request at intermittent periods.
<b>Benefits</b>
This will reduce your administration burden by reporting to ENTRUST only once per year on project starts and completions.
<b>Do you agree with this proposal?</b>
<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Please feel free to add further comments on the above:</b>

**Form 7 – Transferring Monies Generally**

Do you have difficulty in completing Form 7 (Transfers of monies between EBs) accurately and on time? If so, please explain why and suggest how they might be improved.

**Form 7 – Transferring Monies and the obligations**

<b>The Proposal For Removal or Reduction</b>
Remove the obligation on the recipient EB to notify ENTRUST of the receipt of the transferred funds.
<b>The Current Situation in Reporting to ENTRUST</b>
When landfill tax money is transferred, both EBs involved must record the date the money was transferred or received, the enrolment number of the environmental body to whom the transfer was made, or from whom the transfer was received, the amount transferred, the name and registration number of the landfill operator from whom the money was originally received and the name and address of any contributing third party involved. Finally, the approved object of the project for which the transfer is being made must also be notified. Both EBs must report this information to ENTRUST within 7 days using Form 7 <i>Transfers of money between EBs</i> .
<b>The Proposed Situation in Reporting to ENTRUST</b>
The obligation for reporting a transfer would rest solely on donating/sending EB to

notify via Form 7. The recipient may still acknowledge receipt via ENTRUST Online if they wish. Recipient EBs will still need to account for transferred funds via its annual return.

**Benefits**

There would be a reduction in the recipient EBs administration and reporting to ENTRUST. The information would still need to be kept and maintained by the recipient, and the obligations of retaining the record of receipt would remain the same, but the necessity to inform ENTRUST within 7 days of receipt would be removed.

**Do you agree with this proposal?**

Yes  No

**Please feel free to add further comments on the above:**

## Other Regulatory Reporting Requirements

### Reporting a Change in Director on the EBs Board

**The Proposal For Removal or Reduction**

Remove the requirement for reporting a change in director, trustee or other person involved in the management of the EB within 10 days of the change-taking place.

**The Current Situation in Reporting to ENTRUST**

ENTRUST is tasked with ensuring certain persons can not control an EB. An EB should write to tell ENTRUST of any changes in their management and control within 7 days. This includes changes in the membership, shareholders, guarantors, directors, partners or trustees. When notifying ENTRUST of new board members, their names, addresses, occupations, employers, date of birth and indication of whether they are elected councillors or officers of a local authority, and of which one, should also be included.

**The Proposed Situation in Reporting to ENTRUST**

The EB should provide a full list of Directors at the financial year end. An up to date record of directors must also be maintained by the EB and be available to ENTRUST upon request within 10 days.

**Benefits**

A reduction in EB administration and reporting to ENTRUST. The information would still need to be kept and maintained and the obligations on the appointment of new board members remain the same, but the necessity to inform ENTRUST within 10 days of any change would be removed.

**Do you agree with this proposal?**

Yes  No

**Please feel free to add further comments on the above:**

### Submission of Annual Accounts

**The Proposal For Removal or Reduction**

Remove the requirement to submit Annual Accounts to ENTRUST

**The Current Situation in Reporting to ENTRUST**

An EB should submit Annual Accounts to ENTRUST within 9 months of its year-end.

Incorporated environmental bodies must submit accounts to ENTRUST that have been completed in line with the Companies Act 1985. They must send in a full set of accounts, not the abbreviated version accepted by Companies House. In practice, accounts may be submitted within ten months of an EB's year end. ENTRUST has agreed this with HMRC to harmonise with the period a limited company is allowed to submit its accounts to Companies House under the Companies Act 1985.

**The Proposed Situation in Reporting to ENTRUST**

An EB will only need to submit its Annual Accounts to ENTRUST where ENTRUST request them in writing.

**Benefits**

There will be a reduction in reporting for the EB. The annual accounts would still need to be kept and maintained by the EB but the necessity to submit them to ENTRUST within 10 months of the EBs financial year end would be removed.

**Do you agree with this proposal?**

Yes     No

**Please feel free to add further comments on the above:**

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## Further Areas for Improvements

### The EB Manual

Is the guidance contained in the EB Manual easy to understand? and do you fully understand the principles that it follows?

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Are there any areas, which are not covered? Is there too much detail or too little?

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Are the examples of qualifying and non-qualifying projects helpful?

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### Other

Are there any other operational areas that we should review or you would like to see included in future consultations?

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## Appendix B

### Covering Sheet for all responses

#### Response to consultation on changes to the Landfill Tax Regulations

<b>Response Date:</b>	<b>15<sup>th</sup> December 2006</b>
<b>Date Return Submitted:</b>	
<b>Your name:</b>	
<b>Your position:</b>	
<b>Environmental Body name:</b>	
<b>Telephone number:</b>	
<b>Email address:</b>	
<b>Address:</b>	
<b>Number of pages attached:</b>	

**Do you agree that your comments may be published?**

Yes  No

#### **Future Consultations**

This consultation exercise is the first in a number of policy reviews, which the regulator will be commencing in the next financial year. In taking this initiative forward, the regulator would like to establish focus groups to work with organisations to help develop future policies.

We would be grateful if you would indicate if your organisation would be interested in being a member of one of these groups.

Yes  No

If yes, the name of the person to contact:

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