



Regulatory Change Proposals - Consultation Document



December 2008

Contents

Section	Title	Page
1	Executive Summary	3
2	Introduction	3
3	Gathering Evidence	4
4	The Regulations	4
5	Consultation Questions	5
6	Contact Details/How to Respond	6
7	Publication of Response	6

1. Executive Summary

- 1.1 ENTRUST is committed to engaging stakeholders wherever possible to ensure that the regulation of the Landfill Communities Fund (LCF) complies with best regulatory practice. As part of this process, ENTRUST will be running a number of stakeholder consultation exercises during 2008/2009 relating to the regulation of the Fund.
- 1.2 The third consultation exercise will focus on reviewing the Landfill Tax Regulations 1996 (Regulations) to identify those areas that need to be enhanced to provide greater transparency, clarification and simplification and to also reduce the administrative burden on Environmental Bodies.
- 1.3 EBs can provide their submissions in response to this exercise in hard copy, in writing, by attending a focus group or by contributing on the LCF Online Forum.

2. Introduction

- 2.1 This paper aims to provide a vehicle by which stakeholders of the LCF are able to provide evidence to ENTRUST of areas within the Regulations that are currently requiring clarification, or that they consider need to be reviewed.
- 2.2 Stakeholders may have identified what they consider to be improvements to make or be encountering issues that they wish to incorporate into the ENTRUST review. This consultation allows stakeholder suggestions to be incorporated into ENTRUST's regulatory review activities and, if deemed appropriate, submitted to HMRC as a regulatory change proposal.
- 2.3 The consultation paper is aimed at gathering evidence on the Regulations, and is aiming to identify the areas where the Regulations require:
 - Greater transparency
 - Clarification
 - Simplification
 - A reduction in administrative burden
- 2.4 Issues raised that are deemed to require further development or further consultation of their own will be considered in terms of ENTRUST's consultation plans in upcoming years. This will help to guide our agenda under our remit of Better Regulation.

3. Gathering Evidence

3.1 ENTRUST will be seeking stakeholder feedback through the following methods:

- This consultation document, which outlines the issues themselves;
- A focus group to be held to discuss the issues further; and
- The LCF Online Forum on the ENTRUST website will allow discussion to continue, and will include points raised at the focus group.

4. The Regulations

4.1 Background

4.1.1 The Regulations were introduced in 1996. A number of amendments have been made to the Regulations, which include:

- 1999: Clarification of benefit rules and contributing third party involvement, introduction of Object CC;
- 2003: Removal of Objects C and CC (Sustainable waste management);
- 2003: Introduction of Object DA: Conservation of Biodiversity;
- 2007: Reduction of reporting requirements (e.g. when transferring funds between EBs) and expenditure was ceased on all Object C/CC projects that do not have written agreement in place.
- 2008: Revocation ability transferred from ENTRUST to HMRC, annual return submission requirement relaxed to 28 days.

4.1.2 The percentage of a Landfill Operator's tax liability that can be contributed to the LCF has been amended at many points since inception, with the most significant change occurring in 2003 when the percentage that could be paid was reduced from 20% to circa 6%.

4.2 The EB Guidance Manual

4.2.1 The EB Guidance Manual has been issued to provide EBs with clarity and help to assist organisations comply with the Regulations. In May 2008, following feedback from stakeholders, ENTRUST reviewed and re-issued the manual. It should be anticipated that any changes to the Regulations will have an impact on the Guidance Manual.

5. Consultation Questions

Regulation 33 (2) d specifies that expenditure is classified as an approved object:

“where it is for the protection of the environment the provision, maintenance or improvement of -

- (i) a public park; or*
- (ii) another public amenity”*

- 1). Currently, a public amenity with reference to Object D projects is interpreted as ‘Where the general public go for leisure or recreation’. Do you agree that this is an appropriate interpretation?
- 2). If you do not agree that this is an appropriate definition, what type of projects do you feel should be considered compliant that cannot currently be registered?
- 3). ENTRUST would require any admission charge to be comparable to that of similar amenities. Do you believe Object D should include projects which have an entry fee?
- 4). If so, how should allowable entry costs be calculated?

Regulation 33 (2) (e) specifies that expenditure is classed as an approved object:

“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”*

- 5). Current guidance states that these projects must simply be open to the public an appropriate amount of time for a building or structure of this type. Has your organisation ever encountered problems in registering an Object E project on this basis?
- 6). What would be the minimum general public access required by your organisation for an Object E project on this basis?
- 7). Please detail any areas of administrative burden that you are currently subject to that restrict your abilities under the LCF.
- 8). Please outline any other issues you currently face due to the governing Regulations or propose any changes that would improve the efficiency or effectiveness of the LCF.

6. Contact details/ How to respond

- 6.1 The consultation is open to all stakeholders of the LCF and will run for 12 weeks. Any feedback submitted will be treated in strictest confidence and will be considered anonymous unless you state otherwise. Responses can be returned through the following methods:

Email: McNabb Laurie (m.laurie@entrust.org.uk) with 'Regulatory Change Consultation' in the email subject.

Post to: McNabb Laurie
ENTRUST
2nd Floor
Acre House
2 Town Square
Sale
Cheshire
M33 7WZ

Through the LCF Online Forum: <http://www.entrust.org.uk/home/lcf/lcf-forum>

- 6.2 If you wish to attend the focus group to discuss these issues further, please contact McNabb Laurie through the methods above. All expressions of interest should be received by 31 January 2009
- 6.3 The closing date for responses to this document is the **13th March 2009**.

7. Publication of response

- 7.1 A paper summarising the responses to this consultation will be published within two months of the closing of the consultation.
- 7.2 The outcomes of the consultation will be reviewed and any proposals will be subject to an impact assessment and publicised to stakeholders appropriately.