

Rùnaire a' Chaibineit airson Cùisean Dùthchail agus na h-Àrainneachd  
 Cabinet Secretary for Rural Affairs and the Environment  
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Thank you for your letter of 5 February 2010 on behalf of the Dounreay Stakeholder Group regarding current landfill regulations. You propose a legislative amendment which would allow non-radioactive waste to be stored at Dounreay beyond the 3 year limit set out in regulations.

As you will be aware, Regulation 3(4)(b) of the Landfill (Scotland) Regulations 2003 states that any site where waste is stored for a period of less than three years prior to recovery or treatment cannot be classified as a landfill site. However, storage over this 3 year period effectively means that the site is deemed to be a landfill site and is therefore subject to landfill legislation. This regulation essentially transposes the requirements of Article 2(g) of the European Landfill Directive.

I appreciate that you are seeking this change in order to avoid a cost to the taxpayer. However, European Community law is the basis of waste legislation in all member states and failure to properly transpose and enforce the terms of the Landfill Directive would put Scotland at risk of infraction proceedings, which could potentially result in significant financial penalties being imposed by the European Commission.

Regulation of waste management activities in Scotland is the responsibility of the Scottish Environment Protection Agency and they are best placed to advise on whether a non-legislative solution can be found.

I hope that this is helpful.

**RICHARD LOCHHEAD**

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