

EXPLANATORY MEMORANDUM TO
THE AGGREGATES LEVY (NORTHERN IRELAND SPECIAL TAX CREDIT)
REGULATIONS 2015

2015 No. 946

- 1.** This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

These regulations make provision for the introduction of a special tax credit scheme to allow relief from aggregates levy to be claimed on aggregate that was commercially exploited for the purposes of the levy between 1 April 2004 and 30 November 2010, following importation into Northern Ireland from another European Union Member State. It removes a distortion that arose from excluding aggregate imported from other Member States from the tax benefit derived by Northern Ireland quarrying businesses from participation in the Aggregates Levy Credit Scheme (ALCS).

The instrument comes into force on 1st April 2015.

3. Matters of special interest to the Select Committee on Statutory Instruments

It has been necessary to breach the 21 day rule in relation to the making and laying and the coming into force of statutory instruments under the negative procedure. This is because, to meet the terms of a European Commission State aid decision (see paragraph 7.3 below) and protect Northern Ireland businesses from the prospect of the recovery of State aid, the Government is obliged to bring this measure into force as soon as practicable after the coming into force of the primary legislation in Finance Act 2015. The Act received Royal Assent on 26th March 2015.

4. Legislative Context

4.1 The primary legislation relating to the aggregate levy is contained in sections 16-48 of, and Schedules 4 to 10 to, the Finance Act 2001. Section 30A of the Act contained the provisions relating to the ALCS until the section was repealed in 2010.

4.2 The detailed administrative provisions for the ALCS were set out in the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 (SI 2004/1957), which were revoked by SI 2010/2598.

5. Territorial Extent and Application

This instrument applies to the whole of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The ALCS was introduced in 2004 as a means of supporting the quarrying industry in Northern Ireland who were encountering difficulties in dealing with the introduction of the aggregates levy in the UK as a result of being the only part of the UK to share a land boundary with another EU Member State. It gave operators in Northern Ireland an 80 per cent credit on their aggregates levy liability providing they signed up to agreements with the Department of Environment in Northern Ireland to improve operations at their quarries. The scheme was limited to aggregate originating in Northern Ireland. The European Commission approved the scheme under its environmental State aid guidelines in 2004.

7.2 In 2010, the European General Court annulled the Commission's State aid approval. As a result, the Government was obliged to suspend the scheme from 1 December 2010 pending an investigation by the Commission.

7.3 The Commission completed its investigation and published its decision in November 2014. It approved the scheme but expressed concern that the tax benefit arising from the ALCS did not apply to aggregate commercially exploited in Northern Ireland that had originated in another Member State. It required the UK to open up the scheme retrospectively to importations into Northern Ireland from other Member States, covering the period the ALCS was in operation.

7.4 The Government announced in Autumn Statement 2014 that it would extend the ALCS to any business that accounted for the aggregates levy at the full rate from 1 April 2004 to 30 November 2010 on aggregate that was imported from an EU Member State (other than the UK). This instrument will provide for an 80 per cent credit of levy on such aggregate where the originating quarry met required environmental standards set by the Department of the Environment in Northern Ireland.

8. Consultation outcome

No response was received to the draft primary legislation published on 10 December 2014. The secondary legislation was also released in draft to the aggregates industry in Northern Ireland and various accountancy firms on 17 February 2015. No amendments were proposed.

9. Guidance

The details of the scheme provided for by this instrument were set out in Revenue and Customs Brief 41/14 published on 17 November 2014. HMRC guidance will be updated to include details of the requirements for making a claim. This will include the evidence required to support the claim.

10. Impact

10.1 The changes will have limited impact on business and no impact is foreseen on charities or voluntary bodies.

10.2 The changes will have limited impact on the public sector.

11. Regulating small business

The instrument will apply to a very small number of small businesses.

12. Monitoring & review

HMRC will monitor the impact of the measure through information received from the Department of Environment in Northern Ireland who are working with HMRC in the administration of the scheme.

13. Contact

Catherine Osborne at HM Revenue & Customs Tel: 03000 536971 or email: catherine.osborne@hmrc.gsi.gov.uk can answer any queries regarding the instrument.