EXPLANATORY MEMORANDUM TO

THE CLIMATE CHANGE LEVY (GENERAL) (AMENDMENT) REGULATIONS 2006

2006 No. 954

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

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 The instrument will make consequential amendments to the rules about how exemptions from climate change levy (CCL) are claimed and made available following the abolition after 31 March 2006 of the half-rate for supplies of electricity, gas and solid fuels to horticultural producers.

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

3.1 It was not possible to observe the ‘21 day rule’ on this occasion.

3.2 The instrument is linked with a Budget measure to be given statutory effect as of 1 April 2006 under a resolution pursuant to section 1 of the Provisional Collection of Taxes Act 1968 (c.8). It would have been inappropriate to make and lay the instrument before the House of Commons had passed the resolution on 28th March 2006.

3.3 The measure abolishes the half-rate of CCL for supplies to horticultural producers. That would have constituted unlawful State aid after 31 March 2006 upon expiry of clearance from the European Commission.

4. Legislative background

4.1 The Finance Act 2000 (c.17) Schedule 6 has, since 1 April 2001, charged CCL on supplies of electricity, gas and solid fuels for business use.

4.2 Paragraph 43 of that Schedule provides for supplies to horticultural producers to carry only 50% of the CCL rates.

4.3 The resolution mentioned in paragraph 3.2 abolishes that 50% rate as of 1 April 2006.

4.4 The 50% rate is claimed and made available together with the CCL exemptions under Part III of and Schedule 1 to the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838).

4.5 The instrument consequentially amends those Regulations to reflect the abolition of the 50% rate pending full repeal and revocation of the relevant primary and secondary legislation. This will be done during 2006-2007 after claims for the half-rate have been finalised.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The introduction of CCL on the energy used by business and the public sector is part of the United Kingdom's effort to combat climate change and play its part in the European Community's obligations under the Kyoto Protocol. The Protocol aims to reduce emissions of six greenhouse gases from developed countries between 2008 and 2012 by at least 5% below 1990 levels. The European Union and its member States agreed to a burden-sharing agreement of an 8% reduction in greenhouse gas emissions by 2012. As part of this agreement, the United Kingdom has taken on a reduction of 12.5%.

7.2 In the run-up to the introduction of CCL in April 2001 it became clear that the horticultural sector could be particularly disadvantaged. This was because the sector uses a lot of energy in its processes, and is subject to significant international competition, but was not eligible to enter the climate change agreements (CCAs) under the Pollution Prevention and Control (PPC)-based criteria. Ministers therefore decided that the sector should be given a 5-year transitional period in which they would pay a discounted rate of 50% of the full CCL rates. This period was intended to allow the sector to improve its energy efficiency and be better placed to pay the full rate at the end of that period. Unlike the CCAs, the 50% reduced rate for horticulture was not dependent on the sector making environmental improvements. State aid approval was given for a 5-year period to 31 March 2006.

7.3 In Budget 2004 it was announced that, to address various competitive distortions in the current arrangements and subject to State aid approval, eligibility to CCAs (and hence to receive an 80% discount from CCL) would be extended to certain energy intensive sectors that were not eligible under the existing PPC criteria. The horticulture sector was one of those that became eligible under the new criteria, and State aid approval was given recently for the horticulture sector to enter a CCA. The 50% rate is therefore no longer needed.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is absorbed within existing practices and there is no overall net cost to the Exchequer.

9. Contact

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