EXPLANATORY MEMORANDUM TO THE

AGGREGATES LEVY (NORTHERN IRELAND TAX CREDIT) REGULATIONS 2004 No. 1959

1. 1.1 This explanatory memorandum has been prepared by H.M. Customs and Excise and is laid before the House of Commons by Command of Her Majesty.

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

2. Description

2.1 These Regulations make detailed provision for a new transitional aggregates levy tax credit scheme for Northern Ireland ("the scheme") which will apply to persons who commercially exploit aggregate in Northern Ireland during the period 1st April 2004 to 31st March 2011.

2.2 They provide for the entitlement to a tax credit in specified circumstances and define what is meant by an aggregates levy credit certificate (the document required as evidence for a claim under the scheme) and an aggregates levy credit agreement (the underlying agreement between a site operator and the Commissioners of Customs and Excise which sets out the environmental improvements which the site operator has agreed to).

2.3 The tax credit is directly linked to environmental improvements in quarrying practices in Northern Ireland as the certificate serves as evidence of the existence of an underlying environmental agreement and only remains valid for so long as the site operator complies with the terms of that underlying agreement.

2.4 The Regulations also contain general provisions relating to the operation of the scheme to facilitate its administration and, further, revoke the regulations which provide for the current Northern Ireland aggregates levy credit scheme which is being replaced by the new scheme.

2.5 The Committee is respectfully referred to the explanatory note to the Regulations for the background detail.

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

3.1 These Regulations have been made and laid on [Xxx] July following the coming into force of the Finance Act 2004, section 291 of which inserts the new section 30A into the Finance Act 2001 ("the Act"). However, for administrative and policy reasons, they apply as from 1st April 2004. This accords with the vires in the new section 30A, subsection (3), which provides for the scheme to commence on a date which may be earlier than the date on which the section comes into force.

3.2 The start date of 1st April 2004 was approved by the European Commission and allows those who were participating in the earlier more limited scheme which has been replaced by this new scheme to continue to claim relief at the same rate (80%) as

before. If this earlier start date had not been provided for, there would have been a period when the relief under the old scheme would have fallen to 60% only to rise to 80% again when the new regulations took effect.

4. Legislative background

4.1 These Regulations have been made by the Commissioners of Customs and Excise in exercise of their powers under sections 17(6), 30A and 45 of, and paragraph 2 to Schedule 7 to, the Act. Section 30A was inserted by section 291 of the Finance Act 2004.

4.2 Section 30A(1) of the Act empowers the Commissioners to make regulations of the kind described in section 30(2) of the Act (entitlement to tax credit). Section 45(1) of the Act requires any regulations made under the Act to be made by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons (the negative resolution procedure).

4.3 These Regulations replace the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2002 (S.I. 2002/1927).

5. Extent

5.1 This instrument applies to all of the United Kingdom.

5.2 However, the Regulations provide for a tax credit scheme which will only apply to aggregate which is commercially exploited in Northern Ireland where the conditions of the scheme are satisfied. This accords with state aid approval granted by the European Commission.

6. Policy background

6.1 The previous transitional tax credit scheme was introduced at the inception of the aggregates levy in 2002 for companies in Northern Ireland that manufacture value added products from aggregate (concrete, mortar and asphalt) in order to allow this sector time to adjust to the changed market conditions brought about by the introduction of the levy by, for example, increasing the use of recycled and other non-taxed alternative inputs in their processed products. The levy was due to be phased in over 5 years.

6.2 However, evidence gathered by the Government to assess the levy's impact in Northern Ireland confirmed that, because of the unique environmental, geographical and socio-economic circumstances in Northern Ireland, it was unlikely to achieve its environmental aims there.

6.3 Therefore, the Government announced at Pre-Budget Report 2003 that it would introduce a new scheme which, in effect, would extend the scope and duration of the original scheme but tied the industry into improving levels of environmental performance. This scheme, which is provided for in the Finance Act 2004 and for which the detailed arrangements are set out in these Regulations, is therefore designed to deliver the same environmental gains as the levy itself, while providing protection

to quarrying businesses from increased cross-border competition and aggregate acquired from illegal sources.

6.4 Under this new scheme, the relief continues to cover aggregate used in the manufacture of processed products but has been extended to cover virgin aggregate used in its unprocessed state. The relief is fixed at 80% of the full rate of levy and is provided to site operators in Northern Ireland who are in possession of a certificate which confirms that they have entered into, and are complying with, an agreement to make specified environmental improvements over a specified period of time.

6.5 The extended scheme has received the necessary European Commission state aid approval.

6.6 This measure is in line with the Government's objectives for encouraging sustainable development through the aggregates levy and will deliver significant environmental benefits in Northern Ireland. It has strong support from the Quarry Products Association Northern Ireland, the largest quarrying trade body in Northern Ireland, and the support of the Northern Ireland Affairs Committee.

7. Impact

7.1 A regulatory impact assessment has not been prepared for this instrument as it has negligible impact on business, charities or voluntary bodies; operation of the scheme is voluntary and the costs of additional administrative burdens on business are minor compared with the benefit of the tax credit they receive.

7.2 There will be a limited impact on the public sector, which is a major purchaser and user of aggregate and aggregate products in Northern Ireland and will therefore benefit from the tax credit being passed on by suppliers in the form of lower prices.

8. Contact

Dave Fitzgerald at H.M. Customs and Excise (telephone 020 7865 5759 or e-mail Dave.Fitzgerald1@hmce.gsi.gov.uk) can answer any queries regarding the instrument.