EXPLANATORY MEMORANDUM TO

THE AGGREGATES LEVY (NORTHERN IRELAND TAX CREDIT) (REVOCATION) REGULATIONS 2010

2010 No. 2598

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. Purpose of the instrument

2.1 This instrument suspends the Northern Ireland aggregates levy credit scheme by revoking the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 (S.I. 2004/1959).

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

3.1 None.

4. Legislative Context

4.1 The Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 make provision in respect of certain aggregates levy credits which apply in Northern Ireland during the period 1 April 2004 to 31 March 2011 as provided for by section 30A of the Finance Act 2001 (c. 9). The scheme that provides for the credits is known as the Northern Ireland aggregates levy credit scheme.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland.

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

- ***What is being done and why***

7.1 Under the aggregates levy credit scheme introduced in April 2004, registered quarry operators that enter into an agreement with the Commissioners for HMRC to comply with the Code of Practice for the

Aggregates Industry in Northern Ireland, and are issued with a valid aggregates levy credit certificate by the Department of Environment Northern Ireland, have been able to claim an 80% relief from the aggregates levy. On 9 September 2010 the General Court of the European Union annulled the Commission Decision C (2004) 1614 final of 7 May 2004 not to raise objections on State aid grounds to the Northern Ireland aggregates levy credit scheme. Continuing to grant relief under the Scheme is therefore unlawful as there has been no Commission Decision to approve the aid. The Regulations granting the relief have been revoked as a legal mechanism to suspend the Scheme. The scheme is suspended from 1 December 2010 to comply with the Court's judgment while giving the industry as much fair and reasonable notice as has been possible.

- ***Consolidation***

7.2 None.

8. Consultation outcome

8.1 The industry trade body have been made aware of the General Court ruling, and their views on the potential implications for the industry were considered before taking the decision to suspend the scheme.

9. Guidance

9.1 A Revenue & Customs Brief is being published to cover the change brought about by this instrument.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 To comply with the Court judgment this change must apply to all businesses, including those with fewer than 20 employees. The administrative cost of paying the different rate will apply equally to all firms in Northern Ireland.

12. Monitoring & review

12.1 The decision to suspend the scheme will be reviewed following any further consideration by the European Commission about whether the scheme constitutes an approvable State aid. If following a further European Commission investigation into the scheme the Government is in a position to reintroduce the scheme, this will be done by means of fresh legislation.

13. Contact

Tim Smith at HM Revenue & Customs Tel: 020 7147 0573 or email: timothy.smith@hmrc.gsi.gov.uk can answer any queries regarding the instrument.