EXPLANATORY MEMORANDUM TO

THE AGGREGATES LEVY (REGISTRATION AND MISCELLANEOUS PROVISIONS) (AMENDMENT) REGULATIONS 2016

2016 No. 967

1. Introduction

1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs ("HMRC") 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. Purpose of the instrument

2.1 This instrument amends the Aggregates Levy (Registration and Miscellaneous Provisions) Regulations 2001 ("the principal Regulations") which deal with exemption from registration and obligations to notify HMRC of activities that fall within certain exemptions from Aggregates Levy. It clarifies the legislative authority for amendments made to the principal Regulations by the Aggregates Levy (Registration and Miscellaneous Provisions) (Amendment) Regulations 2015 (S.I. 2015/1487) ("the 2015 Regulations") which were laid as a consequence of the government's decision to restore certain exemptions from the Aggregates Levy that had been found to be lawful by a European Commission State aid investigation.

2.2 This instrument revokes the 2015 Regulations and provides for exemptions from registration of the kind which were set out in the 2015 Regulations but with drafting revisions. There are two exemptions from registration for the Aggregates Levy: an unconditional exemption; and an exemption conditional on notification requirements, previously set out in what was regulation 3(4) of the principal Regulations.

2.3 The 2015 Regulations were consequent upon the restoration of certain exemptions from the levy by legislation included in section 48 of Finance (No.2) Act 2015, which came into force on 1 August 2015 under a resolution made under the Provisional Collection of Taxes Act 1968. The 2015 Regulations also came into force on 1 August 2015.

2.4 This instrument comes into force on 1 November 2016.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

3.1 This instrument implements HMRC's response to the Committee's report dated 22 September 2015 on the 2015 Regulations in which HMRC agreed to remedy certain flaws in those Regulations.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The primary legislation relating to the Aggregates Levy is contained in sections 16 to 48 of, and schedules 4 to 10 to, Finance Act ("FA") 2001 as amended. Powers in sections 24(4) and 45(5) of, and in paragraph 6 of Schedule 4 to, the Act provide for the Commissioners for HMRC to make regulations about the registration for Aggregates Levy. In particular, by section 24(4), regulations may provide for exemption from the requirement for registration subject to conditions which may be prescribed.

5. Extent and Territorial Application

5.1 The extent of this instrument is the United Kingdom.

5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

6.1 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 On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

7.2 Certain exemptions from the Aggregates Levy were suspended with effect from 1 April 2014 pending the outcome of a State aid investigation by the European Commission. The Commission announced its decision on 27 March 2015, concluding that the Levy as a whole and all of the exemptions (with the exception of part of the shale exemption) were lawful. Revenue and Customs Brief 6 (2015) announced that the suspended exemptions would be reinstated with effect from the day they were suspended, with changes to the scope of the shale exemption to reflect the European Commission's decision. Finance (No. 2) Act 2015 restored the exemptions with effect from 1 April 2014.

7.3 The principal Regulations were also amended by the 2015 Regulations from 1 August 2015 to remove the requirement to account for the levy for businesses whose sole activities are the commercial exploitation of exempt aggregates. The requirement for businesses to notify HMRC about activities that fall within certain exemptions was reinstated for compliance purposes.

7.4 This instrument retains the changes introduced by the 2015 Regulations; it makes exemption from registration for these businesses conditional on the requirement to notify being fulfilled.

Consolidation

7.5 This instrument makes only minor changes to the principal Regulations and there are therefore no plans for consolidation.

8. Consultation outcome

8.1 HMRC consulted widely on the suspension of the exemptions and consequential amendments and considered comments received before finalising the legislative changes.

9. Guidance

9.1 Public notice AGL1 covering Aggregates Levy, which is available at https://www.gov.uk/government/publications/excise-notice-agl1-aggregates-levy, will be updated in due course to reflect the changes in this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 8 July 2015 and is available on the gov.uk website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

11.3 The basis for the final decision on what action to take to assist small businesses was that the new requirements to notify HMRC of exempt aggregate production, and then to notify any changes annually, represent a very small administrative burden.

12. Monitoring & review

12.1 Exemptions from registration in respect of the Aggregates Levy will be kept under review with affected persons.

13. Contact

13.1 Claire Hardy at HMRC, telephone 03000 585958 or email claire.hardy2@hmrc.gsi.gov.uk can answer any queries regarding the instrument.