EXPLANATORY MEMORANDUM TO

THE CLIMATE CHANGE LEVY (FUEL USE AND RECYCLING PROCESSES) (AMENDMENT) REGULATIONS 2011

2011 No. 0000

1. This explanatory memorandum has been prepared by HM Revenue and Customs on behalf of HM Treasury and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument revokes the exemption from the climate change levy in respect of taxable commodities supplied for use in lead recycling.

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

3.1 None.

4. Legislative Context

4.1 Schedule 6 to the Finance Act 2000 provided for taxable commodities used in certain recycling processes to be exempted from the climate change levy by regulations. S.I. 2005/1715 provided for taxable commodities used in the recycling of aluminium, lead and steel to be so exempted. The exemption qualifies as State aid for which the current approval expires on 31 March 2011. The case for the exemption of lead recycling no longer exists. Therefore the reference to "lead" in S.I. 2005/1715 must be deleted from 1 April 2011.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Economic Secretary, Justine Greening, has made the following statement regarding Human Rights:

In my view the provisions of the Climate Change Levy (Fuel Use and Recycling Processes) (Amendment) Regulations 2011 are compatible with the Convention rights.

7. Policy background

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

7.1 When the climate change levy was introduced in 2001 a number of exemptions were included for various policy reasons. Some of these exemptions benefited the primary production (the smelting from ores) of certain metals. In order not to distort competition between the primary production of metals and the recycling of the same metals, taxable commodities used in the recycling processes for the same metals were also exempted from the levy. The relevant metals were aluminium, lead and steel. The UK secured a 10-year State aid approval from the European Commission in respect of the exemption; that approval expires on 31 March 2011. The Government has applied to renew the State aid approval in respect of aluminium and steel recycling only, because the case for the inclusion of lead recycling in the exemption no longer exists.

- ***Consolidation***

7.2 The Government does not intend to consolidate the legislation at this time.

8. Consultation outcome

8.1 The UK consulted the International Lead Association and found that primary production of lead has ceased in the UK so the exemption's application to it is no longer appropriate.

9. Guidance

9.1 An announcement about the exemption will be made when the instrument is laid before Parliament and climate change levy guidance will be updated to reflect the changes arising from this instrument.

10. Impact

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

10.2 There will be no impact on the public sector.

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

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is a general tax provision and the same for all firms.

11.3 The basis for the final decision on what action to take to assist small business is described in paragraph 7.1, so no such action is taken for this general tax provision.

12. Monitoring & review

12.1 The nature of the instrument is such that there is no requirement to monitor or review its impact.

13. Contact

Andy Jameson at HM Revenue and Customs Tel: 020 7147 2379 or email: andy.jameson@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of HM Treasury.