

2004 No. 1959

AGGREGATES LEVY

**The Aggregates Levy (Northern Ireland Tax Credit) Regulations
2004**

Made - - - - - *23rd July 2004*
Laid before the House of Commons *26th July 2004*
Coming into force - - - *1st September 2004*

The Commissioners of Customs and Excise, in exercise of the powers conferred upon them by sections 17(6), 30A and 45 of, and paragraph 2 of Schedule 7 to, the Finance Act 2001(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

1. These Regulations may be cited as the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2004 and come into force on 1st September 2004.

2. In these Regulations—

- “the Act” refers to sections 16 to 49 of, and Schedules 4 to 10 to, the Finance Act 2001;
- “aggregates levy credit agreement” has the meaning given in regulation 7;
- “aggregates levy credit certificate” has the meaning given in regulation 5;
- “AL” refers to aggregates levy;
- “the AL General Regulations” means The Aggregates Levy (General) Regulations 2002(b);
- “commercial exploitation” and “commercially exploited” are to be construed in accordance with section 19 of the Act;
- “published notice” refers to a notice published by the Commissioners and not withdrawn or replaced by a further notice;
- “registered site” has the meaning given in section 24 of the Act;
- “regulation” refers to the appropriate regulation of these Regulations;
- “site operator” is to be construed in accordance with section 21 of the Act;
- “taxable aggregate” is to be construed in accordance with section 17 of the Act;
- “United Kingdom” means Great Britain and Northern Ireland.

3.—(1) This regulation applies to an eligible person within the meaning of paragraph (6) below who on or after 1st April 2004 and before 1st April 2011 has commercially exploited within Northern Ireland taxable aggregate which has been extracted from a registered site in Northern Ireland and has accounted for the AL chargeable on that commercial exploitation.

(a) 2001 c.9; section 30A was inserted by section 291 of the Finance Act 2004 (c.12) and section 48(1) provides that “the Commissioners” means the Commissioners of Customs and Excise in that Act.
(b) S.I. 2002/761, amended by S.I. 2003/466.

(2) Subject to regulation 4, such a person is entitled to a tax credit as prescribed at paragraph (3) below in respect of any AL accounted for in respect of that commercial exploitation.

(3) The amount of any tax credit to which a person is entitled under this regulation is fixed at 80% of the AL due on the aggregate in question.

(4) This regulation supplements the provisions of Part III of the AL General Regulations (accounting, payment, records, tax credits, repayments, set-off etc).

(5) The tax credit prescribed by this regulation is prescribed for the purposes of subsection (6) of section 17 of the Act.

(6) In this regulation, an “eligible person” is a person who—

- (a) is registered for AL under section 24 of, and Schedule 4 to, the Act in relation to a registered site situated in Northern Ireland;
- (b) has entered into an aggregates levy credit agreement with the Commissioners in respect of any of the registered sites of which he is the site operator; and
- (c) is in possession of an aggregates levy credit certificate issued to him by the Commissioners which relates to the registered site from which the aggregate in respect of which the claim is made was extracted, covers the period of that claim and has not been withdrawn.

4.—(1) Regulation 3(2) shall not apply where any aggregate in respect of which a claim for a tax credit might otherwise be made under regulation 3 is or is to be transferred from Northern Ireland to another part of the United Kingdom in any form.

(2) However, regulation 3(2) shall apply where the claimant can demonstrate to the satisfaction of the Commissioners that such a transfer is only the first stage of an onward export of that aggregate without further processing from the United Kingdom.

5.—(1) In these Regulations, an “aggregates levy credit certificate” is a certificate which—

- (a) relates to a single specified registered site in Northern Ireland;
- (b) is issued by the Commissioners to a site operator as evidence of the existence of an aggregates levy credit agreement between the Commissioners and that site operator in respect of that registered site and of the site operator’s continued compliance with the terms of that agreement; and
- (c) is not transferable.

(2) The Commissioners may make further provision as to the form and content of an aggregates levy credit certificate in a published notice.

6.—(1) An aggregates levy credit certificate may be withdrawn by the Commissioners at any time if the site operator to whom it has been issued fails to comply with any of the terms of the related aggregates levy credit agreement which he has entered into in respect of the same registered site.

(2) The withdrawal of an aggregates levy credit certificate must be notified to the site operator in writing and will take effect from the date of such notification or such later date as it may specify.

7.—(1) In these Regulations an “aggregates levy credit agreement” is an agreement between a site operator in Northern Ireland and the Commissioners which relates to a specified registered site and is evidence that the site operator has agreed to comply with the Code of Practice for the Aggregates Industry in Northern Ireland (an environmental improvement scheme for quarrying) and to be monitored in respect of such compliance.

(2) An aggregates levy credit agreement shall set out the obligations of the site operator in relation to the commissioning of environmental audits and the meeting of specified targets for improvements in environmental practice for the registered site to which it relates within specified time limits.

(3) The Commissioners may make further provision as to the form and content of an aggregates levy credit agreement in a published notice.

8. Where a person is eligible to claim a tax credit under regulation 3 or a tax credit under section 30(1)(a) of the Act (export in the form of aggregate), he is entitled to make only one such claim in respect of any quantity of aggregate.

9. A person who makes a claim under these Regulations is obliged to keep the following records in addition to those required under Part III of the AL General Regulations:

- (a) a record to be known as the “aggregates levy Northern Ireland tax credit account”;
- (b) the relevant aggregates levy credit certificate;
- (c) documentary evidence regarding any claim by him for a tax credit under regulation 3; and
- (d) documentary evidence relating to environmental audits and improvement works.

10.—(1) A tax credit shall only arise under regulation 3 if a claim is made by a person so entitled acting in accordance with regulation 15 or 16 of the AL General Regulations as the case requires.

(2) A person shall not be entitled to make such a claim unless he is in possession of the records required by regulation 9.

11. A person who fails to comply with any requirement imposed on him by regulation 9 shall be liable to a penalty of £250.

12. The Aggregates Levy (Northern Ireland Tax Credit) Regulations 2002(a) are revoked.

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M J Hanson
Commissioner of Customs and Excise

Date 23rd July 2004

(a) S.I. 2002/1927.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of certain tax credits which are to apply in Northern Ireland during the period 1st April 2004 to 31st March 2011 as provided for by section 30A of the Finance Act 2001 (c.9) (inserted by section 291 of the Finance Act 2004 (c.12)).

Regulation 3 provides for the entitlement to the tax credit and further provides that it supplements the provisions contained in Part III of the Aggregates Levy (General) Regulations 2002 (S.I. 2002/761) which deal with accounting, payment, records, tax credits, repayments and set-off etc.

Regulation 4 specifies a limitation on the scope of the tax credit relief which does not apply where aggregate is transferred from Northern Ireland to another part of the United Kingdom unless this is for onward export from the United Kingdom.

Regulation 5 defines what is meant by an aggregates levy credit certificate which is required in the case of a claim for a Northern Ireland tax credit.

Regulation 6 provides for the withdrawal of an aggregates levy credit certificate in specified circumstances.

Regulation 7 defines what is meant by an aggregates levy credit agreement which is the underlying environmental agreement evidenced by the aggregates levy credit certificate.

Regulation 8 makes it clear that only one type of tax credit can be claimed in respect of any quantity of aggregate.

Regulation 9 sets out that additional records which are required in the case of a claim for a Northern Ireland tax credit.

Regulation 10 contains the requirements for a claim to be made.

Regulation 11 provides for a penalty where the additional record keeping requirement (regulation 9) is breached.

Regulation 12 revokes the Aggregates Levy (Northern Ireland Tax Credit) Regulations 2002 (S.I. 2002/1927).

A full regulatory impact assessment has not been produced for this instrument as it has negligible impact on the costs of businesses, charities or voluntary bodies.

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