

**EXPLANATORY MEMORANDUM TO THE
RATING OF QUARRIES (PLANT AND MACHINERY) ORDER
(NORTHERN IRELAND) 2007**

SR 2007 No. 180

1. General

- 1.1 This explanatory memorandum has been prepared by the Department of Finance and Personnel and is laid before Parliament by Command of Her Majesty.

2. Description

- 2.1 The Order revises paragraph 3 of Part III of Schedule 12 to the Rates (Northern Ireland) Order 1977 [S.I. 1977/2157 (N.I. 28)] (“the 1977 Order”).

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

- 3.1 There are no matters of special interest.

4. Legislative Background

- 4.1 The question of revising the classes of plant and machinery which are exempt from valuation for rating purposes was considered as part of the overall Review of Rating Policy (see paragraphs 7.2 and 7.3 below). This Order provides for exemption from rates for items of plant and machinery in quarries which are used for environmental purposes.
- 4.2 The Order does not have any EU implications. Quarries are involved in commercial activities therefore rate exemption could constitute State Aid. However the ‘de minimis’ level rule is likely to apply as businesses are allowed €100,000 over a rolling three year period. This would include other support but as the exemption per property will be between £500 and £2,750 based on 100% rate liability (which assumes Industrial Derating is fully phased out), the Department does not anticipate that quarries would incur this level of relief.

5. Territorial Extent and Application

- 5.1 The Order applies only to Northern Ireland.

6. European Convention on Human Rights

- 6.1 The Order is compliant with the European Convention on Human Rights as it confers a financial benefit on certain persons and that benefit is justifiable on environmental protection grounds.

7. Policy Background

- 7.1 Plant and machinery is taken into account in valuation for rating purposes unless listed in the 1977 Order. This list of rateable plant and machinery changes periodically and this can be done by subordinate legislation. The last change to the list occurred in 2003 when combined heat and power plant was exempted and removed from the list.
- 7.2 The question of exemption for the environmental works in quarries was covered in the policy paper entitled 'Rate Relief for Business in Northern Ireland' that was published in March 2005.
- 7.3 It was noted that the quarry industry in Northern Ireland had a particular concern that the rating system discouraged companies from carrying out environmental works. An assessment was made that an exemption for specified items of plant and machinery would promote environmental good practice and could be part of an incentive based scheme to raise standards (The Code of Practice for the Aggregates Industry in Northern Ireland) and reward compliance to align with Northern Ireland policy on aggregates levy.
- 7.4 Specific structures and items of plant were identified, such as conveyor covers, enclosed crushing plants, oil tank bunds and lean-to structures to reduce dust emissions. The exemption however is to apply to primary production only and not extend to the manufacture of other products such as asphalt or concrete. The policy document can be read at:
<http://www.ratingreviewni.gov.uk/ratereliefsforbusiness.pdf>
- 7.4 In April 2006 the Department issued its consultation report on 'Rate Relief for Business in Northern Ireland'. In it Government indicated the general support for this exemption which would be taken forward through subordinate legislation. The consultation report document can be read at:
http://www.ratingreviewni.gov.uk/business_report.pdf

8. Impact

- 8.1 The Regulatory Impact Assessment is at Annex 1. It is expected that valuation reductions could be in the order of £1,000 NAV to £5,500 leading to corresponding rate liability reductions of between £500 to £2,750 per year based on 100% rate liability.
- 8.2 It is not clear at present how many of the 147 quarries in Northern Ireland would be eligible for this exemption until each quarry is individually revalued. It is anticipated however that the cost of this exemption would be between £200,000 and £400,000 per year.

9. Contact

Brian McClure at the Department of Finance and Personnel Tel 028 9127 7668 or e-mail brian.mcclure@dfpni.gov.uk can answer any questions in relation to this Order.

REGULATORY IMPACT ASSESSMENT (RIA) FOR ENVIRONMENTAL WORKS ASSOCIATED WITH QUARRIES AND MINES

Introduction

8. Quarry companies view the Rating System as a disincentive to carry out environmental improvement works, as they are concerned that their rating assessments will be increased as a consequence.

Objective

9. The objective of this policy proposal is:
 - To assess the potential impact of rates on environmental works at Quarries and Mines.
 - To determine the need and extent of any relief.
 - To ensure that rating policy does not contradict other Government policy, in this case aligning with the aggregates tax.

Underlying Considerations

10. In terms of justifying a new or changed policy, the rationale for Government intervention normally lies in addressing inefficiencies in the operation of markets or institutions resulting from market failure and the achievement of equity or distributional objectives. 'Market failure' refers to situations where the market has not and cannot of itself be expected to deliver an efficient outcome¹. When considering equity reasons for intervention, an assessment should be made of the extent of the inequality to be redressed and the reasons it exists. It should be noted that Government intervention itself can incur costs and cause economic distortions, and these should be taken into account when deciding if intervention is worthwhile.

Background

11. Under Industrial Derating² Quarries and Mines were fully derated, i.e. they were not liable for rates. The phased removal of industrial derating, beginning in April 2005 with full rating from April 2011, will also apply to quarries and mines. Previous legislation relating to Quarries and Mines providing them with 50% rate liability,³ is to be maintained and this will mean that the following phase-out of Industrial Derating will apply to Quarries and Mines.

¹ Source: HM Treasury, Green Book, 2003.

² The Rates (Amendment No. 2) (Northern Ireland) Order 1983 (S.I. 1983 No. 767 (N.I. 10)).

³ Article 37 of, and entry 5 of Schedule 11, and Article 39 of, and Part IX of Schedule 12 to, the Rates (Northern Ireland) Order 1977 (S.I.1977 No. 2158 (N.I. 28)).

Table 1: Phased Removal of Industrial Derating

Year	Percentage of Rate Liability of Industrial Property	Percentage of Rate Liability of Quarries and Mines
2005/2006	15	7.5
2006/2007	25	12.5
2007/2008	35	17.5
2008/2009	50	25
2009/2010	75	37.5
2010/2011	75	37.5
2011/2012	100	50

12. Table 2 below indicates the number of mining and quarrying properties by District Council Area⁴. The areas that contain the most mining and quarrying properties are Cookstown, Omagh, Fermanagh, Newry and Mourne.

Table 2: Quarries and Mines by District Council Area

<i>District Council</i>	Number of Properties	%
Antrim	1	1
Ards	4	3
Armagh	11	7
Ballymena	3	2
Ballymoney	3	2
Banbridge	4	3
Belfast	2	1
Carrickfergus	1	1
Castlereagh	1	1
Coleraine	4	3
Cookstown	19	13
Craigavon	2	1
Derry	10	7
Down	5	3
Dungannon	6	4
Fermanagh	13	9
Larne	3	2
Limavady	2	1
Lisburn	4	3
Magherafelt	10	7
Moyle	1	1
Newry and Mourne	12	8
Newtownabbey	1	1
North Down	1	1
Omagh	15	10
Strabane	9	6
Northern Ireland	147	100⁵

⁴ Source: VLA - 2003 Valuation List

⁵ Figures do not add to 100 due to rounding.

13. The below table shows that mining and quarrying makes up two percent of all manufacturing employment, with the majority of staff being in full time employment.

Table 3: Full and Part Time Employment for All Manufacturing and Mining and Quarrying

	Full Time		Part Time		All Employees	
	Number	Percentage	Number	Percentage	Number	Percentage
Mining and Quarrying	1,980	2	90	1	2,070	2
All Manufacturing	82,480	100	6,150	100	88,630	100

Source: Northern Ireland Quarterly Employment Survey (QES), September 2004, DETI

14. According to English Nature, *'whether extracted by deep mining, opencast/quarrying or dredging, there are significant environmental impacts from modern mineral extraction'*. However *'restoration of used sites may have significant benefits in terms of increasing habitats and contributing to biodiversity action. The production of rock exposures in quarries is important for Geological conservation... There is increasing emphasis on environmental issues in UNITED KINGDOM legislation and business. Current areas of interest include the potential revocation of mineral permissions due to Habitats Regulations and a tax on aggregate extraction.'*⁶
15. The Aggregates Levy Credit Scheme (ALCS) achieves the environmental objectives of the Aggregates Levy while ensuring that the adverse economic impacts of the levy in Northern Ireland are addressed. Quarry operators who comply with the regulatory framework and enter into legally binding Aggregates Levy Credit Agreements can claim Tax Credits at 80% of the full Aggregates Levy rate. Membership of the ALCS requires operators to carry out environmental audits and to implement environmental improvements specified by the Department of the Environment on the basis of those audits.⁷
16. The industry is involved with DOE in drawing up an environmental Code of Good Practice and Compliance Scheme. Companies that sign up to the code and are compliant with it would be entitled to be charged an aggregates levy at 32p per ton rather than the full tax of £1.60 per ton.
17. The Quarry Products Association (QPA) sees the Rating System as a disincentive to companies that may wish to carry out environmental improvement works but are concerned that the rating assessments will be increased. It has sought the introduction of an allowance in the rating assessments of quarries to promote environmental good practice and be part of an incentive based scheme to raise standards and reward compliance. It has suggested a series of exemptions or rebates from rating for specific buildings or constructions erected to reduce environmental impact such as conveyor covers, enclosed crushing plants, oil tank bunds and lean-to structures to reduce dust emissions.

⁶ Source: English Nature, Sector Analysis: Minerals and Aggregates, Natalie Bennett, January 2002 <http://www.english-nature.org.uk/about/sector/minerals.htm>

⁷ See the Department of Environment website for more details: <http://www.doeni.gov.uk/epd/search/details.asp?docid=2383>

Risks

18. There is a risk that if environmental constructions at Quarries and Mines are treated as adding value and therefore increasing the NAV of a property that Quarries and Mines will be discouraged from putting in place these structures in order to improve the environment.
19. There is a risk that as one Government department (the Department of Environment) is encouraging the placement of these structures in order to improve the environment that another department (the Department of Finance and Personnel) will be discouraging this practise by rating these structures.
20. There is also a risk that if Rate Relief is introduced it may cause deadweight, i.e. '*expenditure to promote a desired activity that would in fact have occurred without the expenditure*'⁸, which is a waste of public resources. In this case that the Quarries and Mines would receive Rate Relief on these constructions and they would have put them in place anyway.

Options

21. The options for this rate relief are:
 - Option 1: 'Do Nothing' – this would mean that environmental structures at Quarries and Mines would continue to be fully rateable;
 - Option 2: Give 100% Rate Relief to specified environmental constructions at Quarries and Mines.

⁸ Source: HM Treasury, Green Book, 2003.

Costs and Benefits

Table 4: The Costs and Benefits of the Policy Options

Options	Costs	<i>Benefits</i>
Do nothing	<p>Costs remain the same for Quarries and Mines.</p> <p>Quarries and Mines may be less likely to put in place the environmental structures, which would have environmental costs.</p>	<p>Other ratepayers do not have to pay for the rate relief either through higher rate bills or reduced public service provision.</p>
Provide 100% Rate Relief Environmental structures at Quarries and Mines to receive 100% rate relief	<p>Costs would increase for the general public in terms of increased rate relief (either increased rate bills or decreased public service provision). The valuation reductions for Quarries and Mines could be of the order of £1,000 NAV to £5,500 NAV, leading to corresponding rate liability reductions of between £500 to £2,750 based on 100% rate liability (which assumes industrial derating is fully phased out). There are 147 Quarries in Northern Ireland, though it is not clear without further research how many of these would likely to be eligible for a reduction under such a scheme. The total cost of this Rate Relief is likely to be between £200,000 and £400,000.</p> <p>There is also the potential cost of deadweight.</p>	<p>Quarries and Mines benefit from reduced NAVs to the extent that they have the specified environmental structures. It is likely that the reduction in NAV would be between £1,000 and £5,500 or £500 to £2,750 in reduced rate liability for each quarry.</p> <p>Positive environmental impact due to the increased usage of structures to help the environment.</p>

Equity and Fairness

22. Equity issues are considered in the sections on ‘Section 75’ groups, disadvantaged areas and rural areas.

Small Business Impact Test

23. The structure of the firms that make up the sector can be seen from an analysis of the number of properties by NAV bands (Table 54 below). The Small Business Rates Relief Scheme in Scotland⁹ defines ‘small businesses’ as those having an NAV of £10,000 or less. According to this definition, only 20% of all mining and quarrying properties in Northern Ireland are small. RIA guidelines¹⁰ define ‘small businesses’ in a number of ways one of which is businesses having 50 employees or less. According to this criteria, the mining and quarrying sector would qualify as a small business sector as the employee average per rateable property is 14. The QPA supports this finding, stating that most quarry firms are small and family run businesses.

⁹ Scottish Executive: Small Business Rate Relief Scheme (effective from 1 April 2003)

¹⁰ ‘Better Policy Making: A guide to Regulatory Impact Assessment: A Guide for Northern Ireland’ DETI, December 2004

Table 5: Quarries and Mines by NAV Size

NAV Bands	Number of Properties	%¹¹
1 - 5,000	14	10
5,001 - 10,000	14	10
10,001 - 15,000	12	8
15,001 - 20,000	10	7
20,001 - 25,000	12	8
25,001 - 50,000	39	27
50,001 - 100,000	31	21
100,001 - 250,000	12	8
250,001 - 500,000	2	1
500,001+	1	1
NI Total	147	100

24. Other small firms outside the Quarry and Mines sector are unlikely to be significantly affected, as the cost of this Rate Relief is likely to be low.

Competition

25. As all Quarries and Mines would be able to be given this Rate Relief, there is no differential treatment of firms within this sector and so no firm would be at a competitive advantage or disadvantage over other firms.
26. The structure of the mining and quarrying sector in Northern Ireland is such that the risk to competition is low. No one firm or small number of firms holds a dominant position within the market, nor could they be likely to do so. The proposed policy would not affect some firms substantially more than others, and would not discriminate against new entrants. Furthermore, the existing market would not be significantly changed in size or structure following the introduction of the policy. It was, therefore, concluded that there was only a low level of risk to local competition – i.e. the introduction of this Rate Relief would not have a significantly detrimental effect on the levels of competition within the mining and quarries sector in Northern Ireland.
27. Quarries and Mines are involved in commercial activities therefore rate exemption could constitute State Aid however the ‘de minimis’ level rule is likely to apply as businesses are allowed €100,000 over a rolling three year period, but this would include other support. As the rate relief per property will be between £500 and £2,750 based on 100% rate liability (which assumes Industrial Derating is fully phased out). It is unlikely that Quarries and Mines would incur this level of relief, however arrangements would have to be put in place to ensure that this is the case.

Enforcement and Sanctions

28. The Valuation and Lands Agency (VLA) will continue to assess all properties while the Rate Collection Agency (RCA) will continue to bill and collect the Rates Revenue.

¹¹ Figures do not add to 100 due to rounding.

Monitor and Evaluation

29. Any changes to the policy will be evaluated after a suitable period of time has elapsed to allow the policy to 'bed down' and three years from its introduction is considered appropriate. The evaluation, following Green Book guidance would seek to measure outcomes in terms of potential revenue forgone and impacts on quarries and mines and other occupiers against what would have happened in the absence of the policy.

Recommendation

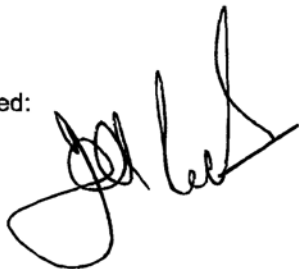
30. The Government considers that introducing Rate Relief for environmental structures at Quarries and Mines is worthwhile on the grounds of environmental improvements and of aligning with Northern Ireland policy on aggregates levy; it also has a relatively modest revenue loss associated with it.

MINISTERIAL DECLARATION

I have read the Regulatory Impact Assessments for the following policies and I am satisfied that the benefits justify the costs.

- Rural ATM Exemption
- Farm Diversification Relief
- Equine Industry/Stud Farm Relief
- Freight Transport Relief
- Relief for Environmental works at Quarries

Signed:



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Contact Point

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