

**EXPLANATORY MEMORANDUM TO  
THE CLIMATE CHANGE LEVY (SOLID FUEL) (REVOCATION) REGULATIONS  
2009**

**2009 No.**

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

**2. Purpose of the instrument**

2.1 Supplies of solid fuel valued at no more than £15 per tonne become subject to climate change levy (CCL) for the first time. Solid fuel in this context is coal and lignite; coke, and semi-coke, of coal or lignite; and petroleum coke.

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

3.1 None.

**4. Legislative Context**

4.1 Supplies of solid fuel valued at no more than £15 per tonne were never subject to CCL. This was the effect of the Climate Change Levy (Solid Fuel) Regulations 2001 (S.I. 2001/1137), regulation 2(2) of which defines “solid fuel” as described in paragraph 2.1 above.

4.2 This instrument revokes those Regulations on 1 January 2010.

4.3 It follows that such supplies will then be subject to CCL.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

The Exchequer Secretary, Sarah McCarthy-Fry MP, has made the following statement regarding Human Rights:

In my view the provisions of the Climate Change Levy (Solid Fuel) (Revocation) Regulations 2009 are compatible with the Convention rights.

**7. Policy background**

• *What is being done and why*

7.1 The CCL is an important part of the UK’s Climate Change Programme. This sets out the Government’s strategy for meeting the UK’s legally binding target under

the Kyoto Protocol of a 12.5% reduction in greenhouse gas emissions below 1990 levels over the period 2008 - 2012. To help meet these targets, CCL encourages the efficient use of energy and the use of renewable energy.

7.2 At its introduction in 2001, CCL was purely a national tax on energy products, subject to certain exemptions and reliefs. One such relief relates to the supply of solid fuel with an open market value of no more than £15 per tonne. The relief is given effect via the Climate Change Levy (Solid Fuel) Regulations 2001. These Regulations determine that such supplies are not supplies of a taxable commodity for CCL purposes and therefore fall outside the scope of the levy.

7.3 From 1 January 2004, EU Member States are required to tax energy products in accordance with the provisions of Council Directive 2003/96/EC – *restructuring the Community framework for the taxation of energy products and electricity* (OJ No L 283, 31.10.03, p 51). Although CCL itself was compatible with the Directive in all other respects, the treatment of low value solid fuel was not.

7.4 In 2005, the UK successfully obtained approval, in the form of a derogation from Directive 2003/96/EC, that enabled it to continue with its tax treatment of low value solid fuel (OJ No L 51, 24.2.05, p 17). However, the derogation was given on the basis that it should be a short-term measure ending on 31 December 2009.

7.5 This instrument therefore revokes the Climate Change Levy (Solid Fuel) Regulations 2001, with the effect that supplies of solid fuel valued at no more than £15 per tonne become subject to CCL from 1 January 2010.

## **8. Consultation outcome**

8.1 HM Revenue & Customs has worked with the industry representative body, the Confederation of UK Coal Producers (Coalpro), the Department for Energy and Climate Change (DECC) and the Department for Environment, Food and Rural Affairs (Defra) to establish the extent to which the relief remained necessary. All concluded that there was no evidence to support its continued use beyond 31 December 2009.

## **9. Guidance**

9.1 The prospective change was announced at the Budget 2009 via a Budget Note. HM Revenue and Customs will continue dialogue with Coalpro to enable them to inform their members and HMRC's CCL notices will be updated to reflect and communicate the change to business.

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible. During the discussions mentioned in paragraph 8.1, Coalpro confirmed that they were unaware of any suppliers still using the relief.

10.2 The impact on the public sector is negligible, for similar reasons.

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 paragraphs 7.2 to 7.5, so no such action is taken for this general tax provision.

## **12. Monitoring & review**

12.1 The change to the CCL treatment of supplies of solid fuel with an open market value of no more than £15 per tonne will be monitored and reviewed as part of HMRC's normal assurance process to ensure that the change made by this instrument achieves its aim.

## **13. Contact**

David Godfrey at HM Revenue & Customs Tel: 0161 827 0335 or email: [dave.godfrey@hmrc.gsi.gov.uk](mailto:dave.godfrey@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.