

BAA Takes Legal Action Against Government's Proposed New Scheme for Relief from the Aggregates Levy in Northern Ireland

The British Aggregates Association (BAA) has lodged a complaint with the European Commission against the UK Government's proposed new scheme for relief from the aggregates levy in Northern Ireland, asking the Commission to investigate as the proposals may be illegal. This follows the Government's request for state aids clearance from the EC for the new scheme, which the Treasury announced in last December's Pre Budget Report and hopes to implement in April 2004. The Quarry Products Association (QPA) has also written to the Commission to voice its opposition to the levy.

BAA Director Robert Durward commented,

"The BAA is sympathetic to the very serious problems the levy has caused for quarry operators in Northern Ireland. But we are concerned that most of these problems apply across the UK, and have not been properly addressed.

"We recognise that our objection could delay or prevent the proposed new relief scheme in Northern Ireland which could have helped stop some of the damage done by the levy in Northern Ireland. But we believe that continuing our legal challenge to the levy, based on compelling evidence that it is not protecting the environment, and is in some ways harming the environment across the UK, is the best way to protect the interests of both the environment and independent quarry operators.

"We lodged this legal complaint after long and careful consideration, and are disappointed the Government has been unable to solve the numerous problems caused by the aggregates levy despite many years' campaigning by the industry. BAA continues to work with Government on a wide range of issues impacting on independent quarry operators, as it has done for several years."

ENDS

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Notes for Editors:

1. The British Aggregates Association is the representative trade body for independent quarrying companies throughout the UK. Formed in 1999, the association has campaigned vigorously against the aggregates levy.
2. On 10 December 2003 Gordon Brown announced in the Pre Budget Report that "the Government intends to extend the scope and length of the current relief for aggregates in Northern Ireland, providing that aggregates businesses in Northern Ireland that wish to benefit from the extended relief agree to implement

environmental improvements to their operations. The relief will continue to cover aggregate in processed products and be extended to cover virgin aggregate, coming into effect during 2004 and fixed at the current level of 80 per cent of the full rate until 31 March 2012.”

3. In July 2002 the BAA brought an action before the Court of First Instance of the European Communities (CFI) against the European Commission, seeking annulment of their decision that the aggregates levy in the United Kingdom did not constitute state aid within the meaning of Article 87(1) EC. This action remains before the court. BAA’s legal team advised that the Government’s latest proposals may also be illegal and recommended that, in line with the action at the CFI, the BAA lodge a complaint to the Commission requesting that the Commission initiate a Formal Investigation Procedure.

Q & A section

Q. What about BAA’s members in Northern Ireland, and the quarrying industry in Northern Ireland?

A: The decision to submit a legal complaint was not taken lightly, but having taken legal advice and tried to talk to the Treasury, we felt there was no alternative.

BAA has campaigned strongly and consistently against the aggregates levy, and has taken a leading role in highlighting the severe problems caused in Northern Ireland as well as across the UK as a whole.

The fact that problems are being experienced across the UK makes it important that BAA continues its legal case against the levy in the whole of the UK.

BAA has kept its members in Northern Ireland, and the Quarry Products Association Northern Ireland, informed throughout, and they understand the reasons behind our actions.

We understand there was already some doubt over whether this proposed new relief scheme would win state aids approval.

Q. How will this affect BAA’s relationship with the Government – will you still be able to represent your members’ concerns effectively?

A: BAA is continuing to work constructively with many different areas of Government on issues affecting its members.

The strong relationships we have developed with numerous Ministers and Government officials over the years will remain.

BAA is a strong voice for the independent quarrying sector that cannot be ignored.

We are therefore confident that we can still represent our members' concerns effectively.

Q. Does the legal case have a realistic chance of success?

A: We are confident that it does.

Q: What if the legal case fails?

A. We are increasingly confident that the legal case will succeed.

In the unlikely event that the legal case did not succeed, the BAA would continue to do what it was founded to do – fiercely defend the interests of the independent quarrying sector and campaign strongly against the problems caused by the aggregates levy.

Q: What environmental impacts has the aggregates levy had across the UK?

A: Overall there is compelling evidence that the proposed environmental benefits have failed to materialise, and instead there have been environmentally damaging side effects. The aggregates levy is causing environmental damage, by creating new, environmentally intrusive spoil heaps by distorting localised aggregates markets. The levy has caused a surge in the level of unlicensed and highly environmentally damaging quarrying in Northern Ireland, and elsewhere in the UK, by creating a significant additional incentive for tax evasion.

Prior to the introduction of the levy, the quarrying industry already conformed to extremely demanding environmental regulation.

There is very limited scope to replace virgin primary aggregate with either recycled construction and demolition waste or alternative materials. In any case, more sophisticated and effective tools (such as landfill tax and the development of cheap mobile crushers) existed before the introduction of the levy to promote the use of alternative materials (including recycled wastes), where viable.

The Aggregates Levy Sustainability Fund has failed to fulfil its remit – much of the funding has gone to projects which do nothing to improve the environment around quarries, and a recent Defra internal review was critical of the Fund.

Q. Does anyone support the BAA's legal stance?

A: The QPA, whilst not part of our legal action, have recently written to the European Commission to state their opposition to the aggregates levy and offer additional evidence of the environmental damage it is causing. The BAA is further aware that a significant number of companies involved in the aggregates and added value markets have also now written to the Commission.