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*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2012, SCHEDULE 31. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 31

Section 207

#### CLIMATE CHANGE LEVY: CLIMATE CHANGE AGREEMENTS

- 1 Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- 2 In paragraph 44(1)(a), (2A) and (2C) (definition of “reduced-rate” supply) for  
“Secretary of State” substitute “ Administrator ”.
- 3 In paragraph 45(1) (variation of certificates under paragraph 44) for “Secretary of  
State” substitute “ Administrator ”.
- 4 In paragraph 45B(2) and (6) (removal of reduced rate) for “Secretary of  
State” (wherever occurring) substitute “ Administrator ”.
- 5 In the cross-heading before paragraph 47 omit “*with Secretary of State*”.
- 6 In paragraph 47(1) (definition of “climate change agreement”: direct agreements)—
  - (a) in paragraph (a), for “Secretary of State” substitute “ Administrator ”,
  - (b) omit the “and” after paragraph (f),
  - (c) in paragraph (g)—
    - (i) for “five-yearly” substitute “ seven-yearly ”, and
    - (ii) after “Secretary of State” insert “ or the Administrator ”, and
  - (d) after paragraph (g) insert “, and  
(h) containing any terms required by regulations falling within  
paragraph 52E.”
- 7 (1) Paragraph 48 (definition of “climate change agreement”: combination of umbrella  
and underlying agreements) is amended as follows.
  - (2) In sub-paragraph (3)(c)—
    - (a) for “five-yearly” substitute “ seven-yearly ”, and
    - (b) after “Secretary of State” insert “ or the Administrator ”.
  - (3) In sub-paragraph (4)—
    - (a) in paragraph (a), for “Secretary of State” substitute “ Administrator ”,
    - (b) omit the “and” after paragraph (c), and
    - (c) after paragraph (d) insert “, and  
(e) containing any terms required by regulations falling within  
paragraph 52E.”
  - (4) In sub-paragraph (5)—
    - (a) for paragraph (b) substitute—  
“ (b) entered into with the Administrator,”,
    - (b) omit paragraph (c),
    - (c) omit the “and” after paragraph (d), and
    - (d) after paragraph (e) insert “, and

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- (f) containing any terms required by regulations falling within paragraph 52E.”
- 8 (1) Paragraph 49 (supplemental provision relating to climate change agreements) is amended as follows.
- (2) In sub-paragraph (3) for “Secretary of State” (wherever occurring) substitute “Administrator”.
- (3) In sub-paragraph (7) for “paragraphs 47 and 48 and this paragraph” substitute “this Part of this Schedule”.
- (4) In sub-paragraph (8)—
- (a) for “Secretary of State” substitute “Administrator”,
- (b) after paragraph (a) insert “or”, and
- (c) omit paragraph (c) and the “or” before it.
- 9 After paragraph 52 insert—

*“The Administrator etc*

- 52A (1) In this Part of this Schedule references to “the Administrator” are to the body appointed as such by regulations made by the Secretary of State.
- (2) The body appointed must be a body established by an enactment (as defined in section 97 of the Climate Change Act 2008).
- (3) Different bodies may be appointed in relation to facilities in different parts of the United Kingdom.
- 52B (1) The Administrator is responsible for administering the scheme set out in paragraphs 44 to 52.
- (2) This covers (in particular) the administration of climate change agreements.
- (3) In this Part of this Schedule “administrative function” means—
- (a) the Administrator's function imposed by sub-paragraph (1), or
- (b) any other power or duty of the Administrator conferred or imposed by or under a provision of this Part of this Schedule.
- 52C (1) The Administrator may require persons falling within sub-paragraph (2) to pay to the Administrator such charges as may from time to time be specified to cover any costs incurred by the Administrator in carrying out any administrative function.
- (2) The persons falling within this sub-paragraph are parties or potential or former parties to agreements falling within paragraph 47 or to umbrella or underlying agreements within the meaning of paragraph 48.
- (3) In sub-paragraph (1) “specified” means specified in, or determined in accordance with, a scheme made by the Administrator for the purposes of this paragraph.
- (4) A scheme may provide for the times at which, and the manner in which, charges are to be paid.

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- (5) Paragraph 146(7) applies in relation to the Administrator's power to make a scheme under this paragraph as it applies in relation to a power to make regulations under this Schedule.
  - (6) A scheme may revoke or vary any previous scheme.
  - (7) A scheme may be made only with the consent of the Secretary of State.
  - (8) Charges received by the Administrator must be paid to the Secretary of State who must pay them into the Consolidated Fund.
  - (9) Sub-paragraph (8) does not apply if the Administrator is the Environment Agency.
- 52D(1) The Secretary of State may by regulations make provision about the administration of the scheme set out in paragraphs 44 to 52.
- (2) Sub-paragraph (1) covers (in particular)—
    - (a) provision about climate change agreements, and
    - (b) provision about how the Administrator is to carry out any administrative function.
  - (3) Without prejudice to the generality of sub-paragraphs (1) and (2), regulations may contain any provision falling within paragraph 52E or 52F.
  - (4) Regulations may—
    - (a) require the Administrator to obtain the Secretary of State's consent to any course of action,
    - (b) confer or impose other powers or duties on the Secretary of State or the Administrator, or
    - (c) confer or impose powers or duties on other persons.
  - (5) The Secretary of State may give directions to the Administrator about how the Administrator is to carry out any administrative function (and this power to give directions includes power to vary or revoke directions previously given).
  - (6) The Secretary of State may issue guidance to the Administrator about how the Administrator is to carry out any administrative function; and the Administrator must have regard to any guidance issued.
- 52E (1) Regulations may—
- (a) specify terms which must be included in agreements falling within paragraph 47 or in umbrella or underlying agreements within the meaning of paragraph 48, and
  - (b) confer power on the Administrator to vary such agreements to take account of any changes in the terms specified under paragraph (a) from time to time.
- (2) The terms which may be specified under sub-paragraph (1)(a) include (in particular) terms falling within paragraph 49(4) under which the absence (or partial absence) of any progress towards meeting any targets for a facility may be made up for by the payment to the Administrator of a sum specified in, or determined in accordance with, the regulations.

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(3) Sums received by the Administrator must be paid to the Secretary of State who must pay them into the Consolidated Fund.

52F (1) Regulations may confer power on the Administrator—

- (a) to impose a financial penalty of a specified amount on a person who, as a representative of a facility to which a climate change agreement applies, contravenes a term of the agreement, and
  - (b) to terminate, with effect from a specified date, the agreement so far as it applies to the facility if—
    - (i) the financial penalty is not paid to the Administrator within a specified period, or
    - (ii) the contravention is not remedied to the Administrator's satisfaction within a specified period.
- (2) Regulations may also confer power on the Administrator to terminate, with effect from a specified date and without first imposing a financial penalty, a climate change agreement so far as it applies to a facility if there is a contravention of the agreement by a person who is a representative of the facility.
- (3) Neither sub-paragraph (1)(a) nor sub-paragraph (2) covers a failure to meet, or to make progress towards meeting, any targets set for a facility under a climate change agreement.
- (4) If regulations falling within sub-paragraph (1) or (2) are made, the regulations must also—
- (a) confer rights of appeal against a decision taken by the Administrator to impose a financial penalty or to terminate a climate change agreement (as the case may be), and
  - (b) specify the court, tribunal or person who is to hear and determine the appeal.
- (5) The Secretary of State may be specified for the purposes of sub-paragraph (4) (b).
- (6) Penalties received by the Administrator must be paid to the Secretary of State who must pay them into the Consolidated Fund.
- (7) Regulations may confer power on the Administrator to terminate, with effect from a specified date, a climate change agreement so far as it applies to a facility in specified circumstances not involving a contravention of the agreement.
- (8) In sub-paragraphs (1) to (7)—
- “representative” has the meaning given by paragraph 47(2), and
  - “specified” means specified in, or determined in accordance with, the regulations.
- (9) Sub-paragraph (10) or (11) (as the case may be) applies if a climate change agreement is terminated in respect of a facility before the start of, or during, a period specified for the facility in such a certificate as is mentioned in paragraph 44(1).

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- (10) If the termination is before the start of the specified period, the Administrator must, in respect of the facility, give a variation certificate within paragraph 45(1)(a) in relation to the specified period.
- (11) If the termination is during the specified period, the Administrator must, in respect of the facility, give a variation certificate within paragraph 45(1)(b) in relation to the specified period specifying the day of the termination.”
- 10 In paragraph 137(1) (disclosure of information) after paragraph (f) insert—  
“(fa) the Administrator (within the meaning of Part 4 of this Schedule);”.
- 11 The amendments made by this Schedule have no effect in relation to climate change agreements entered into with the Secretary of State before the day on which this Act is passed.

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