

SCHEDULE 1

Article 4

Supplies and emissions

SECTION 1

Electricity, gas and fuels: general

Electricity

1.—(1) Subject to section 3, a public body or undertaking (“A”) is supplied with electricity by a person (“B”) where—

- (a) A agrees with B that B will supply electricity to A and that A will pay B for that supply;
- (b) A receives a supply further to that agreement; and
- (c) that supply is measured by a metering device or is a dynamic supply.

(2) A supply of electricity is made at the time it is received.

(3) In sub-paragraph (1)(c) “metering device” is a device where the electricity supplied is charged for as measured by the device.

Gas

2.—(1) Subject to section 3, a public body or undertaking (“A”) is supplied with gas by a person (“B”) where—

- (a) A agrees with B that B will supply gas to A and that A will pay B for that supply;
- (b) A receives a supply further to that agreement; and
- (c) that supply is measured by a metering device.

(2) A supply of gas is made at the time it is received.

(3) In sub-paragraph (1)(c), a “metering device” is a device where the gas supplied is charged for as measured by the device.

Fuels

3.—(1) Subject to sub-paragraph (2) and section 3, a public body or undertaking (“A”) is supplied with fuel by a person (“B”) where—

- (a) A agrees with B that B will supply fuel to A and that A will pay B for that supply; and
- (b) A receives a supply further to that agreement.

(2) No supply of fuel is made under sub-paragraph (1) where that fuel is supplied under paragraph 2.

(3) A supply is made to A—

- (a) at the time the supply is delivered to A; or
- (b) if later, at the time that B provides written confirmation to A of the delivery.

(4) In this paragraph—

“fuel” means any of the fuels listed in column 1 of the table in paragraph 4 (“fuels table”);

“waste” (including in “waste oil” and “waste solvents” in that table)—

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- (a) has the meaning given in section 75(2) of the Environmental Protection Act 1990(1); but
- (b) excludes—
 - (i) any other fuel (except waste oil or waste solvents);
 - (ii) biomass; or
 - (iii) gas derived from a landfill site or produced from the treatment of sewage.

(5) In sub-paragraph (4), “biomass” has the same meaning it has under article 4 of the Renewables Obligation Order 2009(2) and as if that article applied in Scotland and Northern Ireland.

Fuels table

4. The fuels table referred to in paragraph 3—

Fuels table

<i>Fuel</i>	<i>Measurement unit</i>
Aviation spirit	tonnes
Aviation turbine fuel	tonnes
Basic Oxygen Steel (BOS) gas	kWh
Blast furnace gas	kWh
Burning oil/kerosene/paraffin	litres
Cement industry coal	tonnes
Coke oven gas	kWh
Commercial and public sector coal	tonnes
Coking coal	tonnes
Colliery methane	kWh
Diesel	litres
Fuel oil	tonnes
Gas oil	litres
Industrial coal	tonnes
Lignite	tonnes
Liquid petroleum gas (LPG)	litres
Peat	tonnes
Naphtha	tonnes
Natural gas	kWh
Other petroleum gas	kWh

- (1) [1990 c. 43](#). Section 75(2) was amended by section 120(1) of and paragraph 88(1) and (2) of Schedule 22 to the Environment Act 1995 (c. 25) under which the definition of “waste” was inserted. There are other amendments to that section which are not relevant.
- (2) [S.I. 2009/785](#).

<i>Fuel</i>	<i>Measurement unit</i>
Petrol	litres
Petroleum coke	tonnes
Scrap tyres	tonnes
Solid smokeless fuel	tonnes
Sour gas	kWh
Waste (other than waste oil or waste solvents)	tonnes
Waste oil	tonnes
Waste solvents	tonnes

Measurement units

5.—(1) Where in this Order information must be provided concerning a supply of electricity, gas or fuel, the amount of that supply must be expressed in the applicable measurement unit.

(2) The following measurement units apply—

- (a) electricity and gas, kWh;
- (b) fuels, as stated in column 2 of the fuels table.

SECTION 2

Electricity and gas: self-supply

Self-supply of electricity by generators, transmitters, distributors and authorised suppliers

6.—(1) Where a public body or undertaking—

- (a) is described in sub-paragraph (3); and
- (b) supplies electricity to itself,

subject to sub-paragraph (2), it is supplied with that electricity.

(2) Sub-paragraph (1) does not apply to the extent that the electricity is used directly for the generation, transmission or distribution of electricity.

(3) The public bodies or undertakings referred to in sub-paragraph (1) are—

- (a) an authorised supplier of electricity;
- (b) in Great Britain, a public body or undertaking which—
 - (i) holds a generation, transmission or distribution licence within the meaning of section 6 of the Electricity Act 1989(3); or
 - (ii) generates, transmits or distributes electricity and which is exempt under that Act from the requirement to hold a licence to do so;
- (c) in Northern Ireland, a public body or undertaking which—
 - (i) holds a generation or a distribution and transmission licence made under Article 10 of the Electricity (Northern Ireland) Order 1992(4); or

(3) 1989 c. 29. Section 6 has been amended by: section 30 of the Utilities Act 2000 (c. 27); sections 89(3), 136, 143, 145, 146, and 197(9) of the Energy Act 2004 (c. 20) and Schedules 3 and 19 to that Act; section 79 of, and Schedule 8 to, the Climate Change Act 2008 (c. 27).

(4) S.I. 1992/231 (N.I. 1).

- (ii) generates, distributes or transmits electricity and which is exempt under that Order from the requirement to hold a licence to do so.

Self-supply by authorised gas suppliers

7. Where an authorised supplier of gas supplies gas to itself, it is supplied with that gas except to the extent which it uses that gas directly for the transport, supply or shipping of gas.

SECTION 3

Franchise agreements

Supplies under franchise agreements

8.—(1) This section applies to supplies of electricity, gas or fuel in relation to franchise agreements and varies the provisions under section 1 concerning to whom a supply is made.

- (2) The variation applies only where provided under this Order.

Franchise agreements

9.—(1) A “franchise agreement” exists where one undertaking (“the franchisee”) and another undertaking (“the franchisor”) agree that—

- (a) the franchisee carries on a business activity which is the sale or distribution of goods or the provision of services (“the franchise business”);
- (b) the franchise business is carried on under a name which the franchisor provides to the franchisee;
- (c) the premises where the franchise business is carried on are used exclusively for that business by the franchisee; and
- (d) those premises have an internal or external appearance agreed by the franchisor and that appearance is similar to that of other premises in respect of which the franchisor has entered into a franchise agreement.

- (2) Where a franchise agreement exists, “franchise premises” means—

- (a) the premises described in sub-paragraph (1); and
- (b) other premises used by the franchisee in relation to carrying on the franchise business.

Franchise agreements not existing

10. A franchise agreement does not exist where—

- (a) the franchisee and the franchisor are group undertakings in relation to each other; or
- (b) in relation to franchise premises, the franchisee occupies those premises with the permission of the franchisor.

Supplies to franchisees regarded as supplies to franchisors

11.—(1) Sub-paragraphs (2) and (3) apply where—

- (a) there is a franchise agreement; and
- (b) the franchisee is supplied with electricity, gas or fuel under section 1 of this Schedule in relation to the franchise premises (“a franchise supply”).

- (2) For the purposes of Part 2 of this Order, where—

- (a) the franchise agreement exists on the qualification day; and
- (b) during the qualification year there is a franchise supply of electricity which is qualifying electricity,

that franchise supply of electricity is a supply to the franchisor and not the franchisee.

- (3) For the purposes of Parts 4 and 5 of this Order, where—

- (a) the franchisor is a participant or is a member of a group which is a participant; and
- (b) the franchise agreement exists during a year of a phase,

the franchise supply during that year is a supply to the franchisor and not the franchisee.

SECTION 4

Deductions from supplies

Deductions from supplies

12.—(1) This section provides for deductions in calculating the amount of a supply of electricity, gas or fuel under section 1, 2 or 3 of this Schedule.

- (2) The deductions apply only where provided under this Order.

Unconsumed supply

13.—(1) Sub-paragraph (3) applies where A does not consume for its own use some or all of the supply to it of electricity, gas or fuel.

- (2) The amount not consumed by A is “unconsumed supply”.
- (3) Subject to paragraph 14, A is not supplied with the unconsumed supply.

Occupation of premises

14.—(1) Sub-paragraph (2) applies where—

- (a) A has an unconsumed supply; and
- (b) that unconsumed supply is consumed by a person (“B”) in respect of premises which B occupies with the permission of A.

- (2) Paragraph 13(3) does not apply to an unconsumed supply to which sub-paragraph (1) applies.

Consumption outside the United Kingdom

15. A is not supplied with electricity, gas or fuel to the extent that supply is consumed by A outside the United Kingdom.

Domestic accommodation

16.—(1) Subject to sub-paragraph (2), A is not supplied with electricity, gas or fuel—

- (a) to the extent that supply is consumed by A for the purposes of domestic accommodation; and
- (b) where the conditions in sub-paragraph (4) are satisfied concerning that accommodation.

(2) A is supplied with electricity, gas or fuel in respect of common areas described in sub-paragraph (5)(b) where a decision has been made under sub-paragraph (6) that those common areas are not part of the domestic accommodation.

(3) “Domestic accommodation” means premises or that part of premises intended to be used as a person’s permanent home.

(4) The conditions referred to in sub-paragraph (1)—

- (a) the accommodation is not provided in relation to a person’s education, employment or service; and
- (b) no services are provided for the care of a person in residence in that accommodation by the person to whom the supply of electricity, gas or fuel is made.

(5) Where common areas of premises are used in relation to domestic accommodation and the premises are used—

- (a) solely for domestic accommodation; or
- (b) partly for domestic accommodation,

the common areas are part of that accommodation.

(6) A may decide that the common areas where sub-paragraph (5)(b) applies are not part of the domestic accommodation.

(7) A decision made under sub-paragraph (6)—

- (a) may be made in respect of—
 - (i) the supply in the qualification year of a phase and where so made, applies to the phase;
 - (ii) a phase where it was not made in respect of the qualification year, where such a decision is made on or before the participant submits its footprint report;
- (b) must not be altered during the phase.

Caravan sites: accommodation

17.—(1) A is not supplied with electricity, gas or fuel to the extent that supply is consumed by A directly for the purposes of accommodation at a caravan site.

(2) “Caravan site” means—

- (a) in England and Wales and Scotland, a caravan site within the meaning of section 1(4) of the Caravan Sites and Control of Development Act 1960⁽⁵⁾ which is in accordance with Part 1 of that Act—
 - (i) licensed;
 - (ii) exempt from requiring a licence; or
 - (iii) provided by a local authority as defined by that Part;
- (b) in England and Wales, land licensed under section 269 of the Public Health Act 1936⁽⁶⁾ for use as a site for a moveable dwelling within the meaning of that section;
- (c) in Northern Ireland, a caravan site within the meaning of section 1(4) of the Caravans Act (Northern Ireland) 1963⁽⁷⁾ which is—
 - (i) licensed in accordance with section 1(1) of that Act;
 - (ii) exempt from requiring a licence under section 2 of that Act;
 - (iii) provided by a district council as defined by section 21 of that Act⁽⁸⁾; or

⁽⁵⁾ 1960 c. 62.

⁽⁶⁾ 1936 c. 49. Section 269 was amended by sections 30(1) and 48(1) of and Schedule 4 to the Caravan Sites and Control of Development Act 1960 (c. 62). There are other amendments to section 269 which are not relevant.

⁽⁷⁾ 1963 c. 17.

⁽⁸⁾ Section 21 was amended by S.R. (NI) 1973 No 285.

- (iv) provided by the Northern Ireland Housing Executive pursuant to Article 28A of the Housing (Northern Ireland) Order 1981(9).

Emergency and temporary accommodation

18.—(1) Where A is a housing body, A is not supplied with electricity, gas or fuel to the extent the supply is consumed by A for the purposes of emergency or temporary accommodation.

(2) In sub-paragraph (1)—

(a) “emergency or temporary accommodation” means accommodation provided in discharge of a duty on the housing body under—

(i) in England and Wales, Part VII of the Housing Act 1996(10);

(ii) in Scotland, Part II of the Housing (Scotland) Act 1987(11);

(iii) in Northern Ireland, Part II of the Housing (Northern Ireland) Order 1988(12);

(b) “housing body” means—

(i) in England and Wales, a local housing authority within the meaning of Part VII of the Housing Act 1996;

(ii) in Scotland, a local authority within the meaning of Part II of the Housing (Scotland) Act 1987;

(iii) in Northern Ireland, the Northern Ireland Housing Executive.

Transport consumption

19.—(1) Subject to sub-paragraph (2), A is not supplied with electricity, gas or fuel to the extent that supply is consumed by A for the purposes of transport (“transport consumption”).

(2) A is supplied with an un-metered electricity or gas transport supply where a decision has been made that such a supply is not consumed for the purposes of transport under paragraph 20 or 21.

Un-metered transport supply: electricity

20.—(1) Sub-paragraph (2) applies where—

(a) A has consumed a supply of electricity for the purposes of transport; and

(b) part of that supply so consumed was not measured by a meter of any sort (“un-metered electricity transport supply”).

(2) Where this sub-paragraph applies, A may decide that un-metered electricity transport supply is not consumed for the purposes of transport.

(3) A decision made under sub-paragraph (2)—

(a) may be made in respect of—

(i) qualifying electricity in the qualification year of a phase and where so made, applies also to supplies of electricity during the phase;

(ii) a phase where it was not made in respect of the qualification year, where such a decision is made on or before the participant submits its footprint report;

(9) S.I. 1981/156 (N.I. 3). Article 28A was inserted by S.I. 2003/412 (N.I. 2).

(10) 1996 c. 52. Part VII is subject to various amendments under Schedule 1 to the Homelessness Act 2002 (c. 7).

(11) 1987 c. 26. Part II is subject to various amendments under section 3 of and Schedule 10 to the Housing (Scotland) Act 2001 (asp. 10) and section 25 is amended by section 1 of the Homelessness etc (Scotland) Act 2003 (asp. 10).

(12) S.I. 1988/1990 (N.I. 23). Part II is subject to various amendments under chapter IV of the Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2)).

- (b) must not be altered during the phase.

Un-metered transport supply: gas

- 21.**—(1) Sub-paragraph (2) applies where—
- (a) A has consumed gas for the purposes of transport; and
 - (b) part of that supply so consumed was not measured by a meter of any sort (“un-metered gas transport supply”).
- (2) Where this sub-paragraph applies, A may decide that un-metered gas transport supply during a phase is not consumed for the purposes of transport.
- (3) A decision made under sub-paragraph (2)—
- (a) may be made in respect of a phase where such a decision is made on or before the participant submits its footprint report;
 - (b) must not be altered during the phase.

Purposes of transport

- 22.**—(1) In paragraph 19, electricity, gas or fuel is consumed for the purposes of transport where it is used—
- (a) by a road going vehicle, a vessel, an aircraft or a train; or
 - (b) in relation to railways, for network services except where electricity, gas or fuel is used to provide power, heat or light to a building.
- (2) The following definitions have effect for the purposes of sub-paragraph (1)—
- “aircraft” means a self-propelled machine that can move through the air other than against the earth’s surface;
- “network services” has the same meaning it has in section 82 of the Railways Act 1993⁽¹³⁾ but as if section 82(3)(h) of that Act did not apply;
- “road going vehicle” means any vehicle—
- (a) in respect of which a vehicle licence is required under the Vehicle Excise and Registration Act 1994⁽¹⁴⁾;
 - (b) which is an exempt vehicle under that Act; or
 - (c) which is required to display a certificate of Crown exemption under regulation 31 of the Road Vehicles (Registration and Licensing) Regulations 2002⁽¹⁵⁾;
- “train” has the same meaning it has in section 83 of the Railways Act 1993;
- “vessel” means any boat or ship which is self-propelled and operates in or under water.

SECTION 5

Deductions from supplies during the first phase in Northern Ireland

Application of section 5

- 23.**—(1) This section provides for deductions in calculating the amount of a supply of electricity, gas or fuel under section 1, 2 or 3 of this Schedule in Northern Ireland.

⁽¹³⁾ 1993 c. 43.

⁽¹⁴⁾ 1994 c. 22.

⁽¹⁵⁾ S.I. 2002/2742.

- (2) The deductions apply only for the first phase and where provided under this Order.

Public lighting supplies

24.—(1) A is not supplied with electricity, gas or fuel to the extent that supply is consumed by A for the purposes of public lighting.

(2) In sub-paragraph (1), “public lighting” means lighting to illuminate—

- (a) a public accessway, being a street, footpath, footway, cycle track or pedestrian subway open to public access;
- (b) a traffic sign or bollard provided in connection with a public accessway; or
- (c) a car park,

but only where such lighting is provided by or on behalf of the Department for Regional Development⁽¹⁶⁾.

SECTION 6

Additions to supplies: estimation adjustments

Additions to supplies

25.—(1) This section provides for additions in calculating the amount of a supply of electricity, gas or fuel under section 1, 2 or 3 of this Schedule.

(2) The additions apply only where provided under this Order.

Estimation adjustment: electricity and gas

26.—(1) Sub-paragraph (2) applies—

- (a) to a supply to A of electricity or gas measured by a specific metering device (“device 1”) during a year;
- (b) for at least half of the year in which the supply is made, the amount of that supply is estimated by the supplier; and
- (c) A cannot provide evidence to the satisfaction of the administrator that A has measured such estimated supply by a meter reading from device 1.

(2) Where this sub-paragraph applies, the “estimation adjustment” is 10% of the amount of the supply during the year which is measured by device 1.

Estimation adjustment: fuels

27.—(1) Sub-paragraph (2) applies where—

- (a) A is supplied with fuel during a year;
- (b) for at least half of the year in which the supply is made, the amount of that supply consumed by A is estimated by A; and
- (c) A cannot provide evidence to the satisfaction of the administrator of that amount.

(2) Where this sub-paragraph applies, the “estimation adjustment” is 10% of that amount which has been estimated.

(16) Public lighting as described in this paragraph is the responsibility of Northern Ireland Roads Service, an executive agency of the Department for Regional Development.

SECTION 7

Renewables generation and amount of emissions from supplies

Renewables generation: electricity

28.—(1) Sub-paragraph (2) applies where—

- (a) A generates electricity;
- (b) in respect of that generation,—
 - (i) A is issued with a ROC; or
 - (ii) A is in receipt of a financial incentive made by virtue of section 41 of the Energy Act 2008⁽¹⁷⁾; and
- (c) A supplies some or all of that generated electricity to itself under paragraph 6 of this Schedule at the premises where it is generated.

(2) Where this sub-paragraph applies, “renewables generation” is the amount of the electricity generated which A supplies to itself.

Amount of emissions

29.—(1) The emissions in tCO₂ from an amount of electricity, gas or fuel supplied is found by applying to that amount the relevant conversion factor.

(2) Where in respect of fuel, the amount supplied is a blend of fuels, the requirement in sub-paragraph (1) applies in proportion to the fuels supplied.

Conversion factors

30. In paragraph 29, “relevant conversion factor” means a factor listed—

- (a) in version 1 of the document named “CRC Energy Efficiency Scheme Order: Table of Conversion Factors” published by the Secretary of State and made available on the website address at, www.decc.gov.uk, on or before the date this Order is made; or
- (b) in any replacement or revision of the document described in sub-paragraph (a) which is published and made available in the same way as that document (“a revised document”).

Revisions to conversion factors

31.—(1) Only the Secretary of State may draw up a revised document.

(2) The Secretary of State must—

- (a) consult publicly on a draft of a revised document; and
- (b) carry out that consultation for a minimum of 12 weeks.

(3) The Secretary of State must consult—

- (a) the Scottish Ministers;
- (b) the Welsh Ministers; and
- (c) the Northern Ireland departments,

before complying with sub-paragraph (2).

(4) A revised document must be published and made available at least 90 days before the end of the year of the phase in which the factors are to have effect.

(17) 2008 c. 32.

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