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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**The Electricity Supplier Obligations (Amendment  
& Excluded Electricity) Regulations 2015**

**PART 2**

Excluded electricity

**CHAPTER 2**

EII excluded electricity

**EII certificates**

**8.—**(1) A person who uses electricity for a specified activity is entitled, on application to the Secretary of State under regulation 10, to a certificate (an “EII certificate”) in respect of the electricity meter which measures the supply of that electricity where—

- (a) the specified activity is carried out in the course of the person’s business;
  - (b) either—
    - (i) the test in paragraph (2) is met in relation to that business; or
    - (ii) paragraph (4) or (5) applies in relation to that business;
  - (c) the business has been trading for at least 6 months prior to the making of the application; and
  - (d) the Secretary of State is satisfied that the issuing of such a certificate would not breach the law relating to state aid.
- (2) The test in this paragraph is met in relation to a person’s business if—
- (a) where the duration of the relevant period in relation to that business is one financial year, the annual electricity cost impact of that business in that year is equal to, or greater than 0.2;
  - (b) where the duration of the relevant period in relation to that business is four financial years—
    - (i) the average annual electricity cost impact of the three financial years in which the annual electricity cost impact was greatest during the relevant period is equal to or greater than 0.2; and
    - (ii) the annual electricity cost impact in at least two financial years in the relevant period is equal to or greater than 0.2; or
  - (c) where the duration of the relevant period in relation to that business is five financial years—
    - (i) the average annual electricity cost impact of the four financial years in which the annual electricity cost impact was greatest during the relevant period is equal to or greater than 0.2; and

(ii) the annual electricity cost impact in at least two financial years in the relevant period is equal to or greater than 0.2.

(3) The annual electricity cost impact in relation to a person's business in a financial year ("the relevant year") is the amount given by—

$$\frac{BEP \times BEC}{BGVA}$$

where—

BEP is the price which, in the opinion of the Secretary of State, reflects the electricity price paid by businesses which carry out specified activities, in the most recent calendar year for which information is available, expressed in pounds per megawatt hour and adjusted for inflation so as to reflect prices in financial year 2012;

BEC is the amount of electricity consumed by the person's business in the relevant year; and

BGVA is the sum of the staff costs and the earnings of that business in the relevant year, adjusted for inflation so as to reflect prices in financial year 2012, except where that sum is less than 1 in which case it is to be treated as 1.

(4) This paragraph applies in relation to a person's business where, in the opinion of the Secretary of State—

(a) the business would have met the test in paragraph (2) but for significant costs incurred by it which were not related to the specified activity it carries out; or

(b) the majority of businesses engaged in that activity are, or will be, in receipt of EII certificates in respect of that activity and are in competition with the person's business.

(5) This paragraph applies to a person's business where an EII certificate has previously been issued in relation to that business and—

(a) the relevant period which applied to that business for the purposes of the most recent application for a certificate where this paragraph did not apply was the relevant period described in regulation 9(2) or (3);

(b) the business has been trading for less than four financial years before the commencement of the financial year in which the EII application is made; or

(c) paragraph (4) applied in relation to that business in respect of a previous application.

(6) An EII certificate must set out an address and an email address provided by the Secretary of State for correspondence in relation to that certificate.