

EXPLANATORY MEMORANDUM TO
THE COMBINED HEAT AND POWER QUALITY ASSURANCE (TEMPORARY
MODIFICATIONS) REGULATIONS 2021

2021 No. XXXX

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Business, Energy and Industrial Strategy and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 The Combined Heat and Power Quality Assurance (CHPQA) Scheme certifies energy efficient Combined Heat and Power (CHP) plants across the UK as Good Quality, providing access to financial incentives such as environmental tax exemptions. COVID-19 lockdowns and restrictions mean some previously Good Quality CHP operators may not qualify for such incentives in 2021 based on 2020 operational data meaning they will lose financial support. This instrument will modify references to the CHPQA Standard issue number in the Emissions Performance Standard Regulations 2015 (S.I. 2015/933) and the Renewables Obligation Order 2015 (S.I. 2015/1947).
- 2.2 The definition of the CHPQA Standard will be updated to introduce, for a period of 12 months beginning with the day that these Regulations come into force, an easement in the certification process which will provide continuity of financial support subject to appropriate evidence of the direct impact of COVID-19, preventing a secondary financial hit to eligible organisations in 2021. While the CHPQA Standard is being updated, we are also making minor changes to that Standard to remove references to EU Directive 2012/27/EU on Energy Efficiency (the Energy Efficiency Directive) because these continued references are inappropriate now that we have left the EU.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 This instrument is subject to Parliamentary procedure and will be scheduled for debate, and for the purpose of Standing Order No. 83P, does not apply in its entirety to England and Wales only.
- 3.3 The territorial application of this instrument varies between provisions.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales in respect of the modification to the Renewables Obligation Order 2015 and the UK in respect of the modification to the Emissions Performance Standard Regulations 2015.

4.2 The territorial application of this instrument is the same as its extent.

5. European Convention on Human Rights

5.1 Lord Callanan, Lords Parliamentary Under Secretary of State, has made the following statement regarding Human Rights:

“In my view the provisions of the Combined Heat and Power Quality Assurance (Temporary Modifications) Regulations 2021 are compatible with the Convention rights.”

6. Legislative Context

6.1 The CHPQA Scheme, through the CHPQA Standard, outlines the CHPQA methodology, definitions, thresholds and criteria for Good Quality certification of a CHP plant. The latest version of the CHPQA Standard (Issue 8) was published by the Department for Business, Energy and Industrial Strategy on 11th March 2021 to reflect the temporary easement for CHP plants impacted by measures implemented in response to the COVID-19 pandemic and remove references to the Energy Efficiency Directive.

6.2 The instrument modifies, for a period of 12-months beginning with the day on which it comes into force, the following instruments, each of which refer to the CHPQA Standard, to refer to Issue 8 of that Standard:

- The Renewables Obligation Order 2015 (S.I. 2015/1947)
- The Emissions Performance Standard Regulations 2015 (S.I. 2015/933)

6.3 CHPQA certification enables access to incentives through multiple schemes legislated for by different Departments and the Devolved Administrations, and they all intend to modify these schemes via separate instruments as soon as they are able. A separate instrument (the Renewable Heat Incentive Scheme (Temporary Modification) Regulations 2021) is also being laid by the Department for Business, Energy and Industrial Strategy to make a similar modification to the Renewable Heat Incentive Scheme Regulations 2018 (S.I. 2018/611) via the negative resolution procedure.

7. Policy background

What is being done and why?

7.1 CHP is an energy efficient technology that allows generation of both heat and power on site, providing fuel and carbon savings compared to separate generation.

7.2 The CHPQA Scheme was launched in 2000 as a voluntary programme to assess and certify efficient CHPs. To encourage CHP installations and efficient use of the technology, certification through CHPQA enables operators to access multiple benefits including exemptions from the Climate Change Levy and Carbon Price Support taxes and Emissions Performance Standard limits and for renewable fuelled CHP the Renewable Heat Incentive and Renewables Obligation.

7.3 The CHPQA Standard outlines the methodology, definitions, and criteria for Good Quality certification. The CHPQA Standard is referenced in the individual legislation for each scheme that CHPQA certification provides a benefit in relation to.

7.4 To certify, CHP operators submit operational performance data for the previous calendar year to claim taxes and benefits in the next calendar year. For example, for

2020 certification, operators submitted operational data from 2019 to be eligible for benefits throughout 2020. There are two key parameters for CHPQA certification: Quality Index (QI) and Power Efficiency. The QI calculation is based on the amount of useful heat, electricity output and fuel input. The Power Efficiency is based on total annual power output divided by the total annual fuel energy input. CHP Schemes can either achieve full certification if they pass the thresholds or partial certification with benefits deducted proportionally to the overall QI and Power Efficiency values.

- 7.5 In response to the COVID-19 pandemic, some CHP operators have had to alter how they operate their CHPs due to changes in demand for heat and power. In some cases, this will have impacted the ratio of useful heat and power, reducing their QI or Power Efficiency values and making them ineligible for certification and their expected financial benefits for 2021.
- 7.6 Following public consultation, the Department for Business, Energy and Industrial Strategy has agreed to provide a temporary easement to the certification process to allow CHP operators, who have demonstrated that COVID-19 has directly impacted their performance, to submit their 2019 operational data instead of their 2020 data for 2021 certification. This will allow them to remain certified and claim appropriate benefits in 2021 for the schemes the Department is able to legislate for, preventing a secondary financial COVID impact and retaining confidence in the CHPQA scheme and CHP technology.
- 7.7 This is being implemented by the issue of a new, amended CHPQA Standard (Issue 8). The legislation for various schemes which offer tax exemptions and other benefits to CHPQA certified CHP plants mostly refer to a specific Issue of the CHPQA Standard. Therefore, to capture the easement provided for in Issue 8, it is necessary to update the references to the Issue number of the CHPQA Standard in the relevant legislation.
- 7.8 Due to the additional administrative work required to implement this easement, we will be extending the usual certification timeline to allow all easement documentation to be issued before 25th July 2021.
- 7.9 Other Departments and some of the Devolved Administrations intend to make associated instruments to make similar modifications to the remaining legislation related to CHPQA certification under their powers as soon as they are able.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 but relates to the withdrawal of the United Kingdom from the European Union insofar as it allows an updated version of the Standard to take effect which contains minor modifications to remove references to the Energy Efficiency Directive. It otherwise does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

- 9.1 There are no plans to consolidate the Renewables Obligation Order 2015 or the Emissions Performance Standard Regulations 2015 because the amendments made by this instrument are only temporary modifications which will expire after 12 months.

10. Consultation outcome

- 10.1 A six week consultation was held between 15th December 2020 and 29th January 2021. This consultation period was considered appropriate due to the straightforward nature of the changes, narrow stakeholder interest and timing pressures to confirm certification for 2021.
- 10.2 The following statutory consultees for modifications to the Renewables Obligation Order 2015 were consulted: Ofgem, the National Association of Citizens Advice Bureaux and the Scottish Association of Citizens Advice Bureaux. The Minister also considered it appropriate to consult Renewables Obligation accredited CHP generators, the Anaerobic Digestion and Biogas Association (ADBA) and The Association for Renewable Energy (REA). It was concluded that consultation for this modification was not necessary for electricity suppliers as the proposed SI does not apply to them. This was paired with direct stakeholder engagement including with all CHP plants certified in 2019.
- 10.3 The Scottish and Welsh Ministers have been consulted on the changes to the Emissions Performance Standard Regulations 2015.
- 10.4 15 responses were received covering 159 sites across the United Kingdom. All stakeholders agreed and welcomed the change with no major concerns raised. A response to the consultation was published on 11th March 2021.

11. Guidance

- 11.1 Issue 8 of the Combined Heat and Power Quality Assurance Scheme Standard was published on 11th March 2021 and can be found at <https://www.gov.uk/government/publications/chpqa-standard>. Further guidance on the CHPQA Scheme can be found at <https://www.gov.uk/guidance/chpqa-guidance-notes>. Copies of the Standard and its accompanying guidance note may be obtained upon request from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London SW1H 0ET.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the modifications made by the instrument will be in force for no more than 12 months and maintain current incentives to those organisations impacted by COVID-19 lockdowns choosing to be certified as Good Quality, energy efficient CHP through the CHPQA Scheme as they would have done in previous and future years.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses but does not increase the impacts on them, rather it intends to support them through the financial impacts of COVID-19.

14. Monitoring & review

- 14.1 No review provision is required for this instrument as a review would be disproportionate taking into account the negligible additional economic impact of this

instrument and because the modifications are only a temporary measure relating solely to 2021 CHPQA certification.

15. Contact

- 15.1 Hannah Taylor, Telephone: 0207 215 0742 or email: Hannah.Taylor@beis.gov.uk, Department for Business, Energy and Industrial Strategy, can be contacted with any queries regarding the instrument.
- 15.2 Ben Golding, Acting Director General, Energy Transformation and Clean Growth, at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Lord Callanan, Lords Parliamentary Under Secretary of State at the Department for Business, Energy and Industrial Strategy can confirm that this Explanatory Memorandum meets the required standard.