

*Status: Point in time view as at 01/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Finance Act 2000, Part IV. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 6

#### CLIMATE CHANGE LEVY

##### Modifications etc. (not altering text)

- C1** Sch. 6 modified (coming into force in accordance with art. 1 of the amending S.I.) by [The Climate Change Levy \(Suspension of Recycling Exemption\) Order 2011 \(S.I. 2011/1023\)](#), arts. 1, 2, 3
- C2** Sch. 6 modified (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 para. 1\(1\)](#)

#### PART IV

##### PAYMENT AND RATE OF LEVY

###### *Persons liable to account for levy*

- 40 (1) The person liable to account for the levy charged on a taxable supply is, except in a case where sub-paragraph (2) [<sup>F1</sup>or (3)] applies, the person making the supply.
- (2) In the case of a taxable supply made by a person who—
- (a) is not resident in the United Kingdom, and
  - (b) is not a utility,
- the person liable to account for the levy charged on the supply is the person to whom the supply is made.
- [<sup>F2</sup>(3) In the case of levy charged on a taxable supply under paragraph 45B, the person liable to account for the levy is the operator of the facility to which the supply was made.]

##### Textual Amendments

- F1** Words in Sch. 6 para. 40(1) inserted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 59 para. 3\(2\)](#)
- F2** Sch. 6 para. 40(3) inserted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 59 para. 3\(3\)](#)

###### *Returns and payment of levy*

- 41 (1) The Commissioners may by regulations make provision—
- [<sup>F3</sup>(a) for persons liable to account for levy to do so—
    - (i) by reference to such periods (“accounting periods”) as may be determined by or under the regulations, or
    - (ii) in such other way as may be so determined;]

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- (b) for persons who are or are required to be registered for the purposes of the levy to be subject to such obligations to make returns for those purposes for such periods, at such times and in such form as may be so determined; and
  - (c) for persons who are required to account for levy<sup>F4</sup>... to become liable to pay the amounts due from them at such times and in such manner as may be so determined.
- (2) Without prejudice to the generality of the powers conferred by sub-paragraph (1), regulations under this paragraph may contain provision—
- (a) for levy falling in accordance with the regulations to be accounted for by reference to one accounting period to be treated in prescribed circumstances, and for prescribed purposes, as levy due for a different period;
  - (b) for the correction of errors made when accounting for levy by reference to any period;
  - (c) for the entries to be made in any accounts in connection with the correction of any such errors and for the financial adjustments to be made in that connection;
  - (d) for a person, for purposes connected with the making of any such entry or financial adjustment, to be required to provide to any prescribed person, or to retain, a document in the prescribed form containing prescribed particulars of the matters to which the entry or adjustment relates;
  - (e) for enabling the Commissioners, in such cases as they may think fit, to dispense with or relax a requirement imposed by regulations made by virtue of paragraph (d);
  - (f) for the amount of levy which, in accordance with the regulations, is treated as due for a later period than that by reference to which it should have been accounted for to be treated as increased by an amount representing interest at the rate applicable under section 197 of the Finance Act 1996 for such period as may be determined in accordance with the regulations.
- [<sup>F5</sup>(2A) Paragraph 91(5) provides for the application of Part 7 of this Schedule (recovery and interest) in relation to cases where, by virtue of regulations under sub-paragraph (1) (a)(ii) above [<sup>F6</sup>or by virtue of paragraph 45B(8)], a person is liable to account for levy otherwise than by reference to accounting periods.
- (2B) Regulations under this paragraph may provide for the application of any provision of this Schedule in relation to such cases.]
- (3) Subject to the following provisions of this paragraph, if any person (“the taxpayer”) fails—
- (a) to comply with so much of any regulations under this paragraph as requires him, at or before a particular time, to make a return for any accounting period, or
  - (b) to comply with so much of any regulations under this paragraph as requires him, at or before a particular time, to pay an amount of levy due from him,
- he shall be liable to a penalty of £250.
- (4) Liability to a penalty under sub-paragraph (3) shall not arise if the taxpayer satisfies the Commissioners or, on appeal, an appeal tribunal—
- (a) that there is a reasonable excuse for the failure to make the return or to pay the levy in accordance with the regulations; and

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- (b) that there is not an occasion after the last day on which the return or payment was required by the regulations to be made when there was a failure without a reasonable excuse to make it.
- (5) Where, by reason of any failure falling within paragraph (a) or (b) of sub-paragraph (3)—
- (a) a person is convicted of an offence (whether under this Schedule or otherwise), or
- (b) a person is assessed to a penalty under paragraph 98 (penalty for evasion) [F7 or to a penalty for a deliberate inaccuracy under Schedule 24 to the Finance Act 2007 (penalties for errors)],
- that person shall not, by reason of that failure, be liable also to a penalty under that sub-paragraph (3).

**Textual Amendments**

- F3** Sch. 6 para. 41(1)(a) substituted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 192\(2\)\(a\)](#)
- F4** Words in Sch. 6 para. 41(1)(c) repealed (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 192\(2\)\(b\)](#), [Sch. 43 Pt. 4\(2\)](#)
- F5** Sch. 6 para. 41(2A), (2B) inserted (10.7.2003) by [Finance Act 2003 \(c. 14\), s. 192\(2\)\(c\)](#)
- F6** Words in Sch. 6 para. 41(2A) inserted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 2009 \(c. 10\), Sch. 59 para. 4](#)
- F7** Words in Sch. 6 para. 41(5)(b) inserted (1.4.2009) by [The Finance Act 2008, Schedule 40 \(Appointed Day, Transitional Provisions and Consequential Amendments\) Order 2009 \(S.I. 2009/571\), art. 1\(1\), Sch. 1 para. 20\(2\)](#)

*Amount payable by way of levy*

- 42 (1) The amount payable by way of levy on a taxable supply is—
- (a) if the supply is [F8 not] a reduced-rate supply [F9 ...], the amount ascertained from the Table in accordance with sub-paragraph (2);
- [F10](b) .....
- [F11](ba) if the supply is a reduced-rate supply of electricity, [F12]8 per cent of the amount that would be payable if the supply were a supply to which paragraph (a) applies;]
- [F13](bb) if the supply is a reduced-rate of supply of any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state, 23 per cent of the amount that would be payable if the supply were a supply to which paragraph (a) applies;]
- (c) if the supply is [F14 any other] reduced-rate supply, [F15[F16 17] per cent.] of the amount that would be payable if the supply [F17 were a supply to which paragraph (a) applies;]
- [F18](d) .....

[F19]TABLE

*Taxable commodity supplied*

*Rate at which levy payable if supply is not a reduced-rate supply*

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Electricity	£0.00775 per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£0.00465 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£0.02175 per kilogram
Any other taxable commodity	£0.03640 per kilogram]

<sup>F20</sup>(1ZA) .....

[<sup>F21</sup>(1A) Sub-paragraph (1) is subject to paragraph 45B.]

[<sup>F22</sup>(1B) Sub-paragraph (1) does not apply to a deemed supply under paragraph 24A or 24B.]

(2) The levy payable on a fraction of a quantity of a commodity is that fraction of the levy payable on that quantity of the commodity.

[<sup>F23</sup>(3) If a reduced-rate supply is part of an aid scheme within Article 25 of Commission Regulation (EC) No. 800/2008, sub-paragraph (4) cites the title and publication reference of that Regulation for the purpose of complying with Article 3(1) of that Regulation.

(4) That citation is Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (O.J. 2008 No. L214/3) (with the reference to Articles 87 and 88 being read, as a result of the Treaty of Lisbon, as a reference to Articles 107 and 108 of the Treaty on the Functioning of the European Union).]

#### Textual Amendments

- F8** Word in Sch. 6 para. 42(1)(a) substituted (1.11.2007) by [Finance Act 2006 \(c. 25\), s. 172\(11\)\(a\)\(16\)](#); [S.I. 2007/2901, art. 2\(1\)](#) (with [art. 2\(2\)-\(4\)](#))
- F9** Words in Sch. 6 para. 42(1)(a) omitted (1.4.2014) by virtue of [Finance Act 2014 \(c. 26\), Sch. 20 paras. 3\(2\)\(a\), 10](#)
- F10** Sch. 6 para. 42(1)(b) repealed (1.11.2007) by [Finance Act 2006 \(c. 25\), s. 172\(11\)\(b\)\(16\)](#), [Sch. 26 Pt. 8\(1\)](#); [S.I. 2007/2901, art. 2\(1\)](#) (with [art. 2\(2\)-\(4\)](#))
- F11** Sch. 6 para. 42(1)(ba) inserted (with effect in relation to supplies treated as taking place on or after 1.4.2013) by [Finance Act 2012 \(c. 14\), Sch. 30 paras. 20\(a\), 23](#)
- F12** Word in Sch. 6 para. 42(1)(ba) substituted (with effect in accordance with s. 92(5) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 92\(3\)\(a\)](#)
- F13** Sch. 6 para. 42(1)(bb) inserted (with effect in accordance with s. 92(5) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 92\(3\)\(b\)](#)
- F14** Words in Sch. 6 para. 42(1)(c) substituted (with effect in relation to supplies treated as taking place on or after 1.4.2013) by [Finance Act 2012 \(c. 14\), Sch. 30 paras. 20\(b\), 23](#)
- F15** Words in Sch. 6 para. 42(1)(c) substituted (with effect in relation to supplies treated as taking place on or after 1.4.2011) by [Finance Act 2010 \(c. 13\), s. 18](#)
- F16** Word in [Sch. 6 para. 42\(1\)\(c\)](#) substituted (with effect in accordance with s. 93(5) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 93\(3\)](#)
- F17** Words in Sch. 6 para. 42(1)(c) substituted (with effect in relation to supplies of taxable commodities so far as the commodities are actually supplied on or after 1.4.2012) by [Finance Act 2012 \(c. 14\), Sch. 30 paras. 10\(a\)\(ii\), 19](#)

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- F18** Sch. 6 para. 42(1)(d) omitted (1.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 20 paras. 3\(2\)\(b\)](#), [10](#)  
**F19** [Sch. 6 para. 42\(1\) Table](#) substituted (with effect in accordance with s. 93(5) of the amending Act) by [Finance Act 2020 \(c. 14\)](#), [s. 93\(2\)](#)  
**F20** Sch. 6 para. 42(1ZA) omitted (1.4.2014) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 20 paras. 3\(3\)](#), [10](#)  
**F21** Sch. 6 para. 42(1A) inserted (with effect where the certification period begins on or after 1.4.2009) by [Finance Act 2009 \(c. 10\)](#), [s. 118\(2\)](#), [Sch. 59 para. 5](#)  
**F22** Sch. 6 para. 42(1B) inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 paras. 13, 21](#)  
**F23** Sch. 6 para. 42(3)(4) inserted (8.4.2010) by [Finance Act 2010 \(c. 13\)](#), [s. 67](#)

**Modifications etc. (not altering text)**

- C3** Sch. 6 para. 42 modified (retrospective to 1.4.2011) by [Finance Act 2011 \(c. 11\)](#), [s. 79\(2\)\(3\)\(6\)](#)

[<sup>F24</sup>42A(1) This paragraph applies to a deemed supply under paragraph 24A or 24B.

- (2) The amount payable by way of levy on the deemed supply is the amount ascertained by applying the relevant carbon price support rate; and the levy payable on a fraction of a kilowatt hour, kilogram or gigajoule is that fraction of the levy payable on a kilowatt hour, kilogram or gigajoule.

[<sup>F25</sup>(3) The carbon price support rates are as follows.

<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00331 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.05280 per kilogram
Any commodity falling within paragraph 3(1) (d) to (f)	£1.54790 per gigajoule]

- (4) Sub-paragraph (2) needs to be read with paragraphs 42B and 42C.

**Textual Amendments**

- F24** Sch. 6 paras. 42A-42D inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 paras. 14, 21](#)  
**F25** Sch. 6 para. 42A(3) substituted (with effect in relation to supplies treated as taking place on or after 1.4.2016) by [Finance Act 2014 \(c. 26\)](#), [s. 98](#)

- 42B (1) This paragraph applies for the purposes of paragraph 42A(2) if the commodity deemed to be supplied is a quantity of a commodity falling within paragraph 3(1) (d) to (f).
- (2) The number of gigajoules in the quantity supplied is to be determined by reference to the total gross calorific value of that quantity.
- (3) Sub-paragraph (4) applies if there is included in that quantity any coal slurry taken from a slurry pit situated at the site of a coal mine (including a disused coal mine).
- (4) The gross calorific value of the coal slurry is to be left out of account in determining the total gross calorific value of that quantity.

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### Textual Amendments

**F24** Sch. 6 paras. 42A-42D inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 paras. 14, 21](#)

- 42C (1) Sub-paragraph (2) applies for the purposes of paragraph 42A(2) if, in the calendar year in which the deemed supply is treated as taking place, carbon capture and storage technology is operated in relation to carbon dioxide generated by the station in question in producing electricity.
- (2) In relation to the deemed supply, only C% of the relevant carbon price support rate is to be applied (instead of the full rate).
- (3) “C%” is 100% minus the station's carbon capture percentage for the calendar year.
- (4) The station's “carbon capture percentage” for the calendar year is the percentage of the station's generated carbon dioxide for that year which, through the operation of the carbon capture and storage technology, is—
- (a) captured, and
  - (b) then disposed of by way of permanent storage.
- (5) The station's “generated carbon dioxide” for the calendar year is the amount of carbon dioxide generated in the year by the station from the use of carbon price support rate commodities in producing electricity.
- (6) In this paragraph “carbon capture and storage technology” and “carbon dioxide” have the meaning given by section 7(3) and (4) of the Energy Act 2010.
- (7) Sub-paragraph (8) applies for the purposes of sub-paragraph (4) in relation to any carbon dioxide if—
- (a) the carbon dioxide is captured but then leaks out and therefore is not disposed of by way of permanent storage, but
  - (b) the leak does not occur—
    - (i) on the land on which the station is situated,
    - (ii) on any other land under the control of the station's owner or a person connected with the station's owner, or
    - (iii) from any pipeline or other facility or installation which is operated by the station's owner or a person connected with the station's owner.
- Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purposes of paragraph (b).
- (8) The carbon dioxide is to be treated as if it had been disposed of by way of permanent storage.
- (9) If the percentage mentioned in sub-paragraph (4) is not a whole number, it is to be rounded to the nearest whole number (taking 0.5% as nearest to the next whole number).

### Textual Amendments

**F24** Sch. 6 paras. 42A-42D inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 paras. 14, 21](#)

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- 42D (1) This paragraph applies if—
- (a) an amount is determined to be payable by way of levy on a deemed supply of a quantity of a commodity under paragraph 24A or 24B, but
  - (b) it is later determined that that amount is too low.
- (2) For the purposes of this Schedule—
- (a) the person who made the deemed supply is deemed to make a further taxable supply to himself of the quantity of the commodity, and
  - (b) the amount payable by way of levy on that further deemed supply is—
    - (i) the total amount payable on the first deemed supply on the basis of the later determination mentioned in sub-paragraph (1)(b), less
    - (ii) the amount previously determined to be payable on the first deemed supply.]

**Textual Amendments**

**F24** Sch. 6 paras. 42A-42D inserted (retrospective to 26.3.2013) by [Finance Act 2013 \(c. 29\)](#), [Sch. 42 paras. 14, 21](#)

*Half-rate for supplies to horticultural producers*

<sup>F26</sup>43 .....

**Textual Amendments**

**F26** Sch. 6 para. 43 repealed (1.11.2007) by [Finance Act 2006 \(c. 25\)](#), s. 172(12)(16), [Sch. 26 Pt. 8\(1\)](#); [S.I. 2007/2901](#), [art. 2\(1\)](#) (with [art. 2\(2\)-\(4\)](#))

<sup>F27</sup> ...

**Textual Amendments**

**F27** Sch. 6 para. 43A and cross-heading omitted (with effect in accordance with Sch. 20 para. 10(2)(3) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 20 paras. 4, 10\(1\)](#)

<sup>F27</sup> .....

*<sup>F28</sup>Supplies for use in scrap metal recycling and reduced-rate supplies: deemed supply*

**Textual Amendments**

**F28** Sch. 6 paras. 43A, 43B and cross-headings inserted (with effect in accordance with Sch. 30 para. 19 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 30 para. 11](#)

- 43B (1) This paragraph applies where—
- (a) a taxable supply (“the original supply”) has been made to any person (“the recipient”),
  - <sup>F29</sup>(b) the original supply was made on the basis that it was, to any extent—

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- <sup>F30</sup>(i) . . . . .
- (ii) a reduced-rate supply of electricity, or
- (iii) a reduced-rate supply of any other taxable commodity,]
- (c) it is later determined that the original supply was (or was to some extent) a different kind of supply, and
- (d) the amount payable on the supply on the basis mentioned in paragraph (b) is less than the amount payable on the supply on the basis of the later determination.
- (2) For the purposes of this Schedule—
- (a) the recipient is deemed to make a taxable supply to itself of the taxable commodity, and
- (b) the amount payable by way of levy on that deemed supply is—
- (i) the amount payable on the original supply on the basis of the later determination mentioned in sub-paragraph (1)(c), less
- (ii) the amount payable on the original supply on the basis mentioned in sub-paragraph (1)(b).
- (3) This paragraph does not apply where a supply is treated as not being a reduced-rate supply by virtue of paragraph 45B.]

#### Textual Amendments

- F29** Sch. 6 para. 43B(1)(b) substituted (with effect in accordance with Sch. 30 para. 23 of the amending Act) by [Finance Act 2012 \(c. 14\)](#), [Sch. 30 para. 21](#)
- F30** Sch. 6 para. 43B(1)(b)(i) omitted (with effect in accordance with Sch. 20 para. 10(2)(3) of the amending Act) by virtue of [Finance Act 2014 \(c. 26\)](#), [Sch. 20 paras. 5, 10\(1\)](#)

#### *Reduced-rate for supplies covered by climate change agreement*

- <sup>F31</sup>44 (1) For the purposes of this Schedule, a taxable supply is a reduced-rate supply if—
- (a) the taxable commodity is supplied to a facility specified in a certificate given by the <sup>F32</sup>Administrator] to the Commissioners as a facility which is to be taken as being covered by a climate change agreement for a period specified in the certificate, and
- (b) the supply is made at a time falling in that period.
- (2) Sub-paragraph (1) has effect subject to <sup>F33</sup>sub-paragraphs (2A) to (2D) and]<sup>F34</sup>paragraphs 45 and 45B].
- <sup>F35</sup>(2A) The <sup>F36</sup>Administrator] may—
- (a) give a certificate that includes provision specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply,
- (b) vary a certificate so that it includes provision (or further provision) specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply, or
- (c) vary a certificate so that it ceases to include the provision (or some of the provision) specifying one or more descriptions of taxable commodity as being ineligible for reduced-rate supply.



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- (2B) A taxable supply of a taxable commodity to a facility is not a reduced-rate supply if, at the time of the supply, the commodity falls within a description that is specified (by virtue of sub-paragraph (2A)(a) or (b)) in the certificate relating to the facility.
- (2C) The [F37 Administrator] may only include provision in a certificate by virtue of sub-paragraph (2A)(a) or (b)—
- (a) if the Treasury consents in writing to the specification before the specification is made, and
  - (b) [F38: in a case described in sub-paragraph (2CA),] if, and for as long as, the result is compatible with the common market by virtue of Commission Regulation (EC) No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty establishing the European Community (General block exemption Regulation) (O.J. 2008 No. L214/3).

[ That case is where the result is required to be compatible with the common market F39(2CA) by virtue of relevant separation agreement law (as defined in section 7C(3) of the European Union (Withdrawal) Act 2018).]

- (2D) In sub-paragraphs (2A) to (2C) “certificate” means such a certificate as is mentioned in sub-paragraph (1)(a).]
- (3) The Commissioners may by regulations make provision for giving effect to sub-paragraph (1).
  - (4) Regulations under this paragraph may, in particular, include provision for determining whether any taxable commodity is supplied to a facility.
  - (5) The provision that may be made by virtue of sub-paragraph (4) includes, in particular, provision for a taxable commodity of any description specified in the regulations to be taken as supplied to a facility only if the commodity is delivered to the facility.]

#### Textual Amendments

- F31** Sch. 6 para. 44 substituted (1.11.2007) by [Finance Act 2007 \(c. 11\)](#), **Sch. 2 paras. 7, 13(1)**; [S.I. 2007/2902, art. 2\(1\)](#) (with [art. 2\(2\)\(4\)](#))
- F32** Word in Sch. 6 para. 44(1)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 31 para. 2** (with [Sch. 31 para. 11](#))
- F33** Words in Sch. 6 para. 44(2) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **s. 117(3)(a)**
- F34** Words in Sch. 6 para. 44(2) substituted (with effect in accordance with s. 118(2) of the amending Act) by [Finance Act 2009 \(c. 10\)](#), **Sch. 59 para. 6**
- F35** Sch. 6 para. 44(2A)-(2D) inserted (21.7.2009) by [Finance Act 2009 \(c. 10\)](#), **s. 117(2)**
- F36** Word in Sch. 6 para. 44(2A) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 31 para. 2** (with [Sch. 31 para. 11](#))
- F37** Word in Sch. 6 para. 44(2C) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 31 para. 2** (with [Sch. 31 para. 11](#))
- F38** Words in [Sch. 6 para. 44\(2C\)\(b\)](#) inserted (31.12.2020) by [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1499\)](#), **regs. 1, 2(2)**
- F39** [Sch. 6 para. 44\(2CA\)](#) inserted (31.12.2020) by [The Taxes \(State Aid\) \(Amendments\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1499\)](#), **regs. 1, 2(3)**

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*[<sup>F40</sup>Reduced-rate supplies: variation of certificates under paragraph 44]*

**Textual Amendments**

**F40** Sch. 6 para. 45 cross-heading substituted (1.11.2007) by [Finance Act 2007 \(c. 11\)](#), [Sch. 2 paras. 8\(6\), 13\(1\)](#); [S.I. 2007/2902](#), art. 2(1)

- 45 (1) This paragraph applies where the [<sup>F41</sup>Administrator], after having given in respect of a facility such a certificate as is mentioned in paragraph 44(1) (“the original certificate”), gives a certificate (a “variation certificate”) to the Commissioners stating—
- (a) that, throughout the period (“the original period”) specified for the facility in the original certificate, the facility is to be taken as not being covered by a climate change agreement; or
  - (b) that, for so much of the original period as falls on or after a day specified in the variation certificate (being a day falling within the original period), the facility is to be taken as no longer being covered by a climate change agreement.
- <sup>F42</sup>(2) .....
- <sup>F42</sup>(3) .....
- <sup>F42</sup>(4) .....
- (5) If—
- (a) the statement in the variation certificate in respect of the facility is of the type described in sub-paragraph (1)(a), and
  - (b) the day on which [<sup>F43</sup>the variation certificate is given] falls before the beginning of the original period,
- [<sup>F44</sup>the original certificate has effect as if the facility had never been specified in it].
- (6) If—
- (a) the statement in the variation certificate in respect of the facility is of the type described in sub-paragraph (1)(a), and
  - (b) the day on which [<sup>F45</sup>the variation certificate is given] falls during the original period,
- [<sup>F46</sup>the original certificate has effect as if the last day of the period specified for the facility in the original certificate were the day on which the variation certificate is given].
- (7) If the statement in the variation certificate in respect of the facility is of the type described in sub-paragraph (1)(b), [<sup>F47</sup>the original certificate has effect as if the last day of the period specified for the facility in the original certificate were the later of—
- (a) the day on which the variation certificate is given, and
  - (b) the day specified in the variation certificate.]

**Textual Amendments**

**F41** Word in Sch. 6 para. 45(1) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 3](#) (with [Sch. 31 para. 11](#))

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- F42** Sch. 6 para. 45(2)-(4) repealed (1.11.2007) by Finance Act 2007 (c. 11), Sch. 2 paras. 8(2), 13(1), **Sch. 27 Pt. 1(2)**; S.I. 2007/2902, art. 2(1)
- F43** Words in Sch. 6 para. 45(5)(b) substituted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 8(3)(a)**, 13(1); S.I. 2007/2902, art. 2(1)
- F44** Words in Sch. 6 para. 45(5) substituted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 8(3)(b)**, 13(1); S.I. 2007/2902, art. 2(1)
- F45** Words in Sch. 6 para. 45(6)(b) substituted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 8(4)(a)**, 13(1); S.I. 2007/2902, art. 2(1)
- F46** Words in Sch. 6 para. 45(6) substituted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 8(4)(b)**, 13(1); S.I. 2007/2902, art. 2(1)
- F47** Words in Sch. 6 para. 45(7) substituted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 8(5)**, 13(1); S.I. 2007/2902, art. 2(1)

*[<sup>F48</sup>Reduced-rate supplies: deemed supply]*

**Textual Amendments**

- F48** Sch. 6 para. 45A and cross-heading inserted (1.11.2007) by Finance Act 2007 (c. 11), **Sch. 2 paras. 9**, 13(1); S.I. 2007/2902, art. 2(1) (with art. 2(3)(4))

<sup>F49</sup>45A .....

**Textual Amendments**

- F49** Sch. 6 para. 45A omitted (with effect in accordance with Sch. 30 para. 19 of the amending Act) by virtue of Finance Act 2012 (c. 14), **Sch. 30 para. 12**

*[<sup>F50</sup>Removal of reduced rate where targets set by climate change agreement not met]*

**Textual Amendments**

- F50** Sch. 6 para. 45B inserted (with effect in accordance with s. 118(2) of the amending Act) by Finance Act 2009 (c. 10), **Sch. 59 para. 1**

- 45B (1) This paragraph applies where, by virtue of such a certificate as is mentioned in paragraph 44(1), a facility is to be taken as being covered by a climate change agreement for a period specified in that certificate (“the certification period”).
- (2) If it appears to the [<sup>F51</sup>Administrator] that the progress made in the certification period towards meeting targets set for the facility by the agreement has been such as under the provisions of the agreement is unsatisfactory, the [<sup>F51</sup>Administrator] may issue a certificate under this paragraph.
- (3) The certificate must (in addition to specifying the facility, agreement and certification period to which it applies) specify—
- (a) T, that is, the value (expressed in terms of a reduction in tonnes of carbon dioxide equivalent) of achieving the targets set for the facility by the agreement, and

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- (b) P, that is, the value (expressed in the same terms) of the progress made by the facility, during the certification period, towards meeting those targets.
- (4) Where a certificate has been issued under this paragraph—
- (a) each taxable supply made to the facility at any time falling within the certification period is to be treated as not being a reduced-rate supply, and
- (b) accordingly, an amount (determined in accordance with sub-paragraph (5)) is payable by way of levy on that taxable supply.
- (5) The amount payable under this paragraph on a taxable supply is—
- $$\text{TPT} \times 0.8R$$
- where—
- T and P have the values mentioned in sub-paragraph (3), and
- R is the amount which would have been payable by way of levy on the supply (had it not been a reduced-rate supply) at the time that it was made, in accordance with paragraph 42(1)(a).
- (6) The [F52 Administrator] must send the certificate to—
- (a) the Commissioners, and
- (b) the person who is the operator of the facility.
- (7) A certificate under this paragraph may be issued after the certification period ends.
- (8) A person liable to account for levy under this paragraph—
- (a) is liable to account for it otherwise than by reference to an accounting period, and
- (b) must not (by virtue of regulations under paragraph 41) become liable to pay it as from a date before the date on which the certificate under this paragraph is issued.
- (9) Levy due under this paragraph is payable in addition to any levy already payable on any supply made in the certification period.
- (10) In this paragraph—
- “certification period”, in a case where the certificate referred to in sub-paragraph (1) has been varied under paragraph 45, means the period for which that certificate has effect as varied;
- “tonne of carbon dioxide equivalent” has the meaning given in the Climate Change Act 2008.]

#### Textual Amendments

**F51** Word in Sch. 6 para. 45B(2) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 4](#) (with [Sch. 31 para. 11](#))

**F52** Word in Sch. 6 para. 45B(6) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 4](#) (with [Sch. 31 para. 11](#))

#### *Climate change agreements*

- 46 In this Schedule “climate change agreement” means—
- (a) an agreement that falls within paragraph 47, or

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- (b) a combination of agreements that falls within paragraph 48.

*Climate change agreements: direct agreement* <sup>F53</sup> ...

#### Textual Amendments

**F53** Words in Sch. 6 para. 47 heading omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 5](#) (with [Sch. 31 para. 11](#))

- 47 (1) An agreement (including one entered into before the passing of this Act) falls within this paragraph if it is an agreement—
- (a) entered into with the [<sup>F54</sup>Administrator],
  - (b) expressed to be entered into for the purposes of the reduced rate of climate change levy,
  - (c) identifying the facilities to which it applies,
  - (d) to which a representative of each facility to which it applies is a party,
  - (e) setting, or providing for the setting of, targets for the facilities to which it applies,
  - (f) specifying certification periods (as to which see paragraph 49(1)) for the facilities to which it applies, <sup>F55</sup> ...
  - (g) providing for [<sup>F56</sup>seven-yearly] (or more frequent) reviews by the Secretary of State [<sup>F57</sup>or the Administrator] of targets set by or under the agreement for those facilities and for giving effect to outcomes of such reviews [<sup>F58</sup>, and
  - (h) containing any terms required by regulations falling within paragraph 52E.]
- (2) In this paragraph and paragraph 48 “representative”, in relation to a facility to which an agreement applies, means—
- (a) the person who is the operator of the facility at—
    - (i) the time the agreement is entered into, or
    - (ii) if later, the time the facility last became a facility to which the agreement applies,
- or
- (b) a person authorised by that operator to agree to the facility being a facility to which the agreement applies.

#### Textual Amendments

- F54** Word in Sch. 6 para. 47(1)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 6\(a\)](#) (with [Sch. 31 para. 11](#))
- F55** Word in Sch. 6 para. 47(1) omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 6\(b\)](#) (with [Sch. 31 para. 11](#))
- F56** Words in Sch. 6 para. 47(1)(g) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 6\(c\)](#) **(i)** (with [Sch. 31 para. 11](#))
- F57** Words in Sch. 6 para. 47(1)(g) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 6\(c\)\(ii\)](#) (with [Sch. 31 para. 11](#))
- F58** Sch. 6 para. 47(1)(h) and word inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 6\(d\)](#) (with [Sch. 31 para. 11](#))

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*Climate change agreement: combination of umbrella and underlying agreements*

- 48 (1) A combination of agreements falls within this paragraph if the following conditions are satisfied.
- (2) The first condition is that the combination is a combination of—
- (a) an umbrella agreement (including one entered into before the passing of this Act), and
  - (b) an agreement (including one entered into before the passing of this Act) that, in relation to the umbrella agreement, is an underlying agreement.
- (3) The second condition is that between them the two agreements—
- (a) set, or provide for the setting of, targets for the facilities to which the underlying agreement applies,
  - (b) specify certification periods (as to which see paragraph 49(1)) for the facilities to which the underlying agreement applies, and
  - (c) provide for [<sup>F59</sup>seven-yearly] (or more frequent) reviews by the Secretary of State [<sup>F60</sup>or the Administrator] of targets set by or under the agreements for those facilities and for giving effect to outcomes of such reviews.
- (4) For the purposes of this paragraph an “umbrella agreement” is an agreement—
- (a) entered into with the [<sup>F61</sup>Administrator],
  - (b) expressed to be entered into for the purposes of the reduced rate of climate change levy,
  - (c) identifying the facilities to which it applies, <sup>F62</sup>...
  - (d) to which a representative of each facility to which it applies is a party [<sup>F63</sup>, and
  - (e) containing any terms required by regulations falling within paragraph 52E.]
- (5) For the purposes of this paragraph an agreement is an “underlying agreement” in relation to an umbrella agreement if it is an agreement—
- (a) expressed to be entered into for the purposes of the umbrella agreement,
  - [<sup>F64</sup>(b) entered into with the Administrator,]
  - <sup>F65</sup>(c) .....
  - (d) identifying which of the facilities to which the umbrella agreement applies are the facilities to which it applies, <sup>F66</sup>...
  - (e) to which a representative of each facility to which it applies is a party [<sup>F67</sup>, and
  - (f) containing any terms required by regulations falling within paragraph 52E.]
- (6) In the case of a climate change agreement that is a combination of agreements that falls within this paragraph, references to the facilities to which the climate change agreement applies are references to the facilities to which the underlying agreement applies.

**Textual Amendments**

- F59** Words in Sch. 6 para. 48(3)(c) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 7\(2\)\(a\)](#) (with [Sch. 31 para. 11](#))
- F60** Words in Sch. 6 para. 48(3)(c) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 7\(2\)\(b\)](#) (with [Sch. 31 para. 11](#))
- F61** Words in Sch. 6 para. 48(4)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 7\(3\)\(a\)](#) (with [Sch. 31 para. 11](#))

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- F62** Word in Sch. 6 para. 48(4) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 31 para. 7(3)(b)** (with Sch. 31 para. 11)
- F63** Sch. 6 para. 48(4)(e) and word inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 31 para. 7(3)(c)** (with Sch. 31 para. 11)
- F64** Sch. 6 para. 48(5)(b) substituted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 31 para. 7(4)(a)** (with Sch. 31 para. 11)
- F65** Sch. 6 para. 48(5)(c) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 31 para. 7(4)(b)** (with Sch. 31 para. 11)
- F66** Word in Sch. 6 para. 48(5) omitted (17.7.2012) by virtue of Finance Act 2012 (c. 14), **Sch. 31 para. 7(4)(c)** (with Sch. 31 para. 11)
- F67** Sch. 6 para. 48(5)(f) and word inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 31 para. 7(4)(d)** (with Sch. 31 para. 11)

*Climate change agreement: supplemental provisions*

- 49 (1) The first certification period specified by a climate change agreement for a facility to which it applies shall begin with the later of—
- (a) the date on which the agreement, so far as relating to the facility, is expressed to take effect, and
  - (b) 1st April 2001;
- and each subsequent certification period so specified shall begin immediately after the end of a previous certification period.
- (2) Where a climate change agreement (the “new agreement”) applies to a facility to which another climate change agreement previously applied, the first certification period specified by the new agreement for the facility shall be—
- (a) a period beginning as provided by sub-paragraph (1), or
  - (b) a period that—
    - (i) begins earlier than that, and
    - (ii) is a period that was a certification period specified for the facility by any climate change agreement that previously applied to the facility.
- A period such as is mentioned in paragraph (b) includes a period beginning, or beginning and ending, before the date on which the new agreement, so far as relating to the facility, is expressed to take effect.
- (3) For the purposes of giving certificates such as are mentioned in paragraphs 44(1) and 45(1), the [F68 Administrator] may take a facility as being covered by a climate change agreement for a period if the facility is one to which the agreement applies and either—
- (a) that period is the first certification period specified by the agreement for the facility, or
  - (b) that period is a subsequent certification period for the facility and it appears to the [F68 Administrator] that progress made in the immediately preceding certification period towards meeting targets set for the facility by the agreement or by a climate change agreement that previously applied to the facility is, or is likely to be, such as under the provisions of the agreement in question is to be taken as being satisfactory.
- (4) For the purposes of sub-paragraph (3)(b) a climate change agreement may (in particular) provide that progress towards meeting any targets for a facility is to

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be taken as being satisfactory if, in the absence (or partial absence) of any such progress required under the agreement, alternative requirements provided for by the agreement are satisfied.

- (5) For the purposes of sub-paragraphs (2) and (3), the circumstances in which a facility to which a climate change agreement applies is one to which another such agreement previously applied include those where the facility is—
- (a) a part, or a combination of parts, of a facility to which another such agreement previously applied,
  - (b) a combination of two or more such facilities,
  - (c) any combination of parts of such facilities, or
  - (d) any combination of such facilities and parts of such facilities.
- (6) Paragraphs 47 and 48 and sub-paragraph (4) above are not to be taken as meaning that an agreement, or combination of agreements, containing provision in addition to any mentioned in those paragraphs and that sub-paragraph is not a climate change agreement.
- (7) For the purposes of [<sup>F69</sup>this Part of this Schedule] “target”, in relation to a facility to which a climate change agreement applies, means a target relating to—
- (a) energy, or energy derived from a source of any description, used in the facility or an identifiable group of facilities within which the facility falls, or
  - (b) emissions, or emissions of any description, from the facility or such a group of facilities;
- and for this purpose “identifiable group” means a group that is identified in the agreement or that at any relevant time can be identified under the agreement.
- (8) Nothing in this Schedule is to be taken as requiring the [<sup>F70</sup>Administrator] to—
- (a) enter into any climate change agreement, [<sup>F71</sup>or]
  - (b) enter into a climate change agreement with any particular person or persons, in respect of any particular facility or facilities or on any particular terms.  
<sup>F72</sup>  
...
  - <sup>F72</sup>(c) .....

#### Textual Amendments

- F68** Word in Sch. 6 para. 49(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 8\(2\)](#) (with [Sch. 31 para. 11](#))
- F69** Words in Sch. 6 para. 49(7) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 8\(3\)](#) (with [Sch. 31 para. 11](#))
- F70** Word in Sch. 6 para. 49(8) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 8\(4\)\(a\)](#) (with [Sch. 31 para. 11](#))
- F71** Word in Sch. 6 para. 49(8) inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 8\(4\)\(b\)](#) (with [Sch. 31 para. 11](#))
- F72** Sch. 6 para. 49(8)(c) and word omitted (17.7.2012) by virtue of [Finance Act 2012 \(c. 14\)](#), [Sch. 31 para. 8\(4\)\(c\)](#) (with [Sch. 31 para. 11](#))



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*Facilities to which climate change agreements can apply*

- 50 (1) This paragraph applies where, in connection with concluding or varying a climate change agreement, it falls to be determined whether a facility is to be, or is to continue to be, identified in the agreement as a facility to which the agreement applies.
- (2) For the purposes of such a determination “facility” is (subject to any regulations under sub-paragraph (3) or (4)) to be taken as meaning—
- (a) an installation covered by paragraph 51; or
  - (b) a site on which there is or are—
    - (i) such an installation or two or more such installations,
    - (ii) a part, or parts, of such an installation,
    - (iii) a part, or parts, of each of two or more such installations, or
    - (iv) any combination of such installations and parts of such installations.
- (3) The Secretary of State may by regulations make provision for an installation covered by paragraph 51 to be taken to be a facility for those purposes only if—
- (a) the taxable commodities supplied to the installation by taxable supplies are intended to be burned (or, in the case of electricity, consumed)—
    - (i) in the installation, or
    - (ii) on the site where the installation is situated but not in the installation,and
  - (b) the amounts of taxable commodities, and of any other commodities specified in the regulations, subject to each of those intentions are such that any conditions specified in the regulations are satisfied.
- (4) The Secretary of State may by regulations make provision for a site to be taken to be a facility for those purposes only if—
- (a) the taxable commodities supplied to the site by taxable supplies are intended to be burned (or, in the case of electricity, consumed)—
    - (i) in installations on the site that are covered by paragraph 51 (or in parts of such installations), or
    - (ii) on the site but not in any such installation (or part of such an installation),and
  - (b) the amounts of taxable commodities, and of any other commodities specified in the regulations, subject to each of those intentions are such that any conditions specified in the regulations are satisfied.
- (5) Regulations under sub-paragraph (3) or (4) may make provision for deeming, for the purposes of the regulations, commodities to be intended to be burned (or, in the case of electricity, consumed) in circumstances specified in the regulations.
- (6) In this paragraph and paragraph 51 “installation” means a stationary technical unit.

*Energy-intensive installations*

- 51 (1) An installation is covered by this paragraph if it falls within any one or more of the descriptions of installation set out in the Table.
- [<sup>F73</sup>(2) Sub-paragraph (2A) applies where—
- (a) an installation falls within any one or more of those descriptions, and

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- (b) there is, on the same site as the installation, a location at which ancillary activities are carried out.
- (2A) The installation (taken alone) is not covered by this paragraph, but the combination—
- (a) of the installation and that location, or
  - (b) where there is more than one such location, of the installation and all of those locations,
- is to be taken as being an installation covered by this paragraph.
- (2B) In sub-paragraph (2) “ancillary activities” means activities that—
- (a) are directly associated with any of the primary activities carried out in the installation,
  - (b) have a technical connection with those primary activities, and
  - (c) could have an effect on environmental pollution.]
- (3) [<sup>F74</sup>sub-paragraphs (1) to (2B)] are subject to any regulations under paragraph 52.
- <sup>F75</sup>(4) .....
- <sup>F75</sup>(5) .....
- (6) [<sup>F76</sup>sub-paragraph (2B)]—
- “environmental pollution” has the same meaning as in the <sup>M1</sup>Pollution Prevention and Control Act 1999;
- “primary activity”, in relation to an installation falling within any one or more of the descriptions of installation set out in the Table, means an activity the carrying out of which at the installation results in the installation falling within one or more of those descriptions.

#### TABLE

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<sup>F77</sup> Installations regulated under [<sup>F78</sup>the Environmental Permitting (England and Wales) Regulations 2016]]

<sup>F79</sup>1 1. Part A installations.

*Installations that would be so regulated but for a threshold or exception*

2 Installations that would be Part A installations but for—

- (a) a relevant numeric threshold, or
- (b) a relevant exception.

*Installations that would be so regulated if certain modifications were made to the Regulations*

3 Installations that would be Part A installations if the relevant modifications were made.

*Corresponding installations in Scotland and Northern Ireland*

4 Installations that are situated in Scotland or Northern Ireland, but if situated in England and Wales—

- (a) would be Part A installations,
- (b) would be Part A installations but for—
  - (i) a relevant numeric threshold, or

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- (ii) a relevant exception, or
- (c) would be Part A installations if the relevant modifications were made.

*Interpretation of entries 1 to 4*

- 5 <sup>F80</sup>(1) In this entry “the Schedule” means Schedule 1 to <sup>F81</sup>the Environmental Permitting (England and Wales) Regulations 2016 (S.I. 2016/1154).]
- (2) In entries 1 to 4—
- <sup>F82</sup>(a) “Part A installation” has the meaning given in <sup>F83</sup>paragraph 1 of Part 1 of Schedule 1 to <sup>F84</sup>the Environmental Permitting (England and Wales) Regulations 2016];]
- (b) “relevant exception” means—
- (i) the exception in paragraph (b)(i) <sup>F85</sup>or (ii) of Part A(1) of Section 2.1 of <sup>F86</sup>Part 2 of the Schedule],
  - <sup>F87</sup>(ii) .....
  - <sup>F87</sup>(iii) .....
- (c) “the relevant modifications” means the omission of the following provisions of <sup>F86</sup>Part 2 of the Schedule]:
- (i) the final twelve words of paragraph (b) of Part A(1) of Section 4.4;
  - (ii) the final twelve words of paragraph (b) of Part A(1) of Section 4.5;
  - <sup>F88</sup>(iia) [ in the interpretation of Section 5.1, in relation to the definitions of “co-incineration plant” and “incineration plant”, the final nine words in the sentence beginning “This definition covers;]
  - <sup>F89</sup>(iii) paragraph 1 of the Interpretation and application of Part A(1) of Section 5.4;]
  - (iv) the final fourteen words of paragraph (c) of Part A(1) of Section 6.1;
  - (v) the final fourteen words of paragraph (c) of Part A(1) of Section 6.4; and
  - (vi) the final fourteen words of paragraph (f)(ii) of Part A(1) of Section 6.8; and
- (d) “relevant numeric threshold” means a numeric threshold specified in any of the following provisions of <sup>F86</sup>Part 2 of the Schedule]:
- (i) paragraphs (c) and (d) of Part A(1) of Section 2.1;
  - (ii) Part A(2) of Section 2.1;
  - (iii) paragraph (b) of Part A(1) of Section 2.2;
  - (iv) Part A(1) of Section 2.3;
  - (v) paragraph (b) of Part A(1) of Section 3.1;
  - (vi) paragraph (b) of Part A(2) of Section 3.1;
  - (vii) paragraph (b) of Part A(1) of Section 3.3;
  - (viii) Part A(2) of Section 3.3;
  - (ix) paragraph (a) of Part A(1) of Section 3.4;

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- [ Part A(1) of Section 3.6;]
- <sup>F90</sup>(ixa)
- (x) Part A(2) of Section 3.6;
- (xi) paragraphs (c) and (d) of Part A(1) of Section 4.1;
- (xii) paragraphs [<sup>F91</sup>(c)] and (e) of Part A(1) of Section 5.1;
- [ paragraphs (a) and (c) of Part A(2) of Section 5.1;]
- <sup>F92</sup>(xi ai)
- (xiii) Part A(1) of Section 5.2;
- (xiv) Part A(1) of Section 5.3;
- (xv) paragraph (c) of Part A(1) of Section 5.4;
- (xvi) paragraph (b) of Part A(1) of Section 6.1;
- (xvii) Part A(1) of Section 6.3;
- (xviii) paragraphs (a) and (b) of Part A(1) of Section 6.4;
- (xix) Part A(2) of Section 6.4;
- (xx) Part A(2) of Section 6.7;
- (xxi) paragraphs (a) to (e) of Part A(1) of Section 6.8;
- (xxii) Part A(2) of Section 6.8; and
- (xxiii) Part A(1) of Section 6.9; and
- (e) any reference to a part of the United Kingdom includes the territorial waters adjacent to that part.]

#### Textual Amendments

- F73** Sch. 6 para. 51(2)(2A)(2B) substituted for Sch. 6 para. 51(2) (23.3.2001) by [S.I. 2001/1139](#), **reg. 2(2)**
- F74** Words in Sch. 6 para. 51(3) substituted (23.3.2001) by [S.I. 2001/1139](#), **reg. 2(3)**
- F75** Sch. 6 para. 51(4)(5) omitted (23.3.2001) by [S.I. 2001/1139](#), **reg. 2(4)**
- F76** Words in Sch. 6 para. 51(6) substituted (23.3.2001) by [S.I. 2001/1139](#), **reg. 2(5)**
- F77** Sch. 6 para. 51 Table cross-heading substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), **reg. 1(1)(b)**, **Sch. 26 Pt. 1 para. 16** (with **reg. 1(2)**, **Sch. 4**)
- F78** Words in Sch. 6 para. 51(6) substituted (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), **reg. 1(1)**, **Sch. 29 para. 15(a)** (with **regs. 1(3)**, **77-79**, **Sch. 4**)
- F79** Sch. 6 para. 51: Table entries 1-5 substituted for entries 1-33 (23.3.2001) by [S.I. 2001/1139](#), **reg. 2(6)**
- F80** Sch. 6 para. 51 Table entry 5 substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 1(1)(b)**, **Sch. 21 para. 27(2)(b)** (with **reg. 72**, **Sch. 4**)
- F81** Words in Sch. 6 para. 51(6) entry 5(1) substituted (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), **reg. 1(1)**, **Sch. 29 para. 15(b)** (with **regs. 1(3)**, **77-79**, **Sch. 4**)
- F82** Sch. 6 para. 51 Table entry 5 substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), **reg. 1(1)(b)**, **Sch. 21 para. 27(2)(c)** (with **reg. 72**, **Sch. 4**)
- F83** Words in Sch. 6 para. 51 Table entry 5 substituted (E.W.) (6.4.2010) by [The Environmental Permitting \(England and Wales\) Regulations 2010 \(S.I. 2010/675\)](#), **reg. 1(1)(b)**, **Sch. 26 Pt. 1 para. 16(b)** (with **reg. 1(2)**, **Sch. 4**)
- F84** Words in Sch. 6 para. 51(6) entry 5(1) substituted (E.W.) (1.1.2017) by [The Environmental Permitting \(England and Wales\) Regulations 2016 \(S.I. 2016/1154\)](#), **reg. 1(1)**, **Sch. 29 para. 15(c)** (with **regs. 1(3)**, **77-79**, **Sch. 4**)
- F85** Words in Sch. 6 para. 51 Table entry 5 inserted (12.7.2006) by [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), **regs. 1**, **2(2)**

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- F86** Words in Sch. 6 para. 51 Table entry 5 substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 27(2)(d)** (with reg. 72, Sch. 4)
- F87** Sch. 6 para. 51 Table entry 5 omitted (12.7.2006) by virtue of [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), regs. 1, **2(3)**
- F88** Words in Sch. 6 para. 51 Table entry 5 inserted (12.7.2006) by [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), regs. 1, **2(4)**
- F89** Sch. 6 para. 51 Table entry 5 substituted (E.W.) (6.4.2008) by [The Environmental Permitting \(England and Wales\) Regulations 2007 \(S.I. 2007/3538\)](#), reg. 1(1)(b), **Sch. 21 para. 27(2)(e)** (with reg. 72, Sch. 4)
- F90** Words in Sch. 6 para. 51 Table entry 5 inserted (12.7.2006) by [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), regs. 1, **2(5)**
- F91** Word in Sch. 6 para. 51 Table entry 5 substituted (12.7.2006) by [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), regs. 1, **2(6)**
- F92** Words in Sch. 6 para. 51 Table entry 5 inserted (12.7.2006) by [The Climate Change Agreements \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1848\)](#), regs. 1, **2(7)**

#### Marginal Citations

- M1** 1999 c. 24.

#### *Power to vary the installations covered by paragraph 51*

- 52 (1) The Treasury may make provision by regulations for varying the installations covered by paragraph 51.
- (2) The provision that may be made by regulations under this paragraph includes, in particular, provision—
- for the installations covered by paragraph 51 to include, or not to include, any installation of a description specified in the regulations;
  - amending the Table in paragraph 51 by adding a description of installation to the Table, removing a description of installation from the Table or altering a description of installation set out in the Table;
  - amending paragraph 51.

*<sup>F93</sup>The Administrator etc*

#### Textual Amendments

- F93** Sch. 6 paras. 52A-52F and cross-heading inserted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), **Sch. 31 para. 9** (with [Sch. 31 para. 11](#))

- 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.

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- (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.
- (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).

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- (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.
- (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.

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- (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).
- (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.]



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