
STATUTORY INSTRUMENTS

2001 No. 838

The Climate Change Levy (General) Regulations 2001

PART IV

RENEWABLE SOURCE ELECTRICITY

Interpretation of Part IV

46.—(1) In this Part—

“exempt renewable supplies” refers to that expression in paragraph 19(2) of the Act;

“renewable source contract” refers to the contract mentioned in paragraph 19(1)(b) of the Act (contract containing renewable source declaration).

(2) In regulations 47 and 48, “relevant Authority” refers to the Gas and Electricity Markets Authority (in the case of electricity generated otherwise than in Northern Ireland) or the Director General of Electricity Supply for Northern Ireland (in the case of electricity generated in Northern Ireland).

(3) In regulation 49(3), “relevant Authority” refers to the Gas and Electricity Markets Authority (in the case of electricity supplied in Great Britain) or the Director General of Electricity Supply for Northern Ireland (in the case of electricity supplied in Northern Ireland).

(4) In regulations 49(4) and 49(5), “relevant Authority” refers to either or both the Gas and Electricity Markets Authority and the Director General of Electricity Supply for Northern Ireland.

Generation and certification of renewable source electricity

47.—(1) Subject to paragraphs (3) to (15) and regulation 48, electricity is “renewable source electricity” for the purposes of the Act to the extent that it has been generated from renewable sources provided that it is not electricity generated from a large hydro generating station.

(2) In this regulation—

“declared net capacity” means the highest generation of electricity (at the main alternator terminals) which, on the assumption that the source of power is available without interruption, can be maintained indefinitely without causing damage to the plant less so much of that capacity as is consumed by the plant;

“distribution system” and “transmission system” in relation to Great Britain have the meanings given in section 4 of the Electricity Act 1989(1) as it will have effect once it has been amended by section 28 of the Utilities Act 2000(2); in relation to Northern Ireland “transmission system” system has the meaning given in article 3 of the Electricity (Northern Ireland) Order 1992(3);

(1) 1989 c. 29.

(2) At the time of making these regulations section 28 of the Utilities Act 2000 has not yet been brought into force, but is to be treated as if it had been in this regulation.

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

“fossil fuel” means coal, substances produced directly or indirectly from coal, lignite, natural gas, crude liquid petroleum, or petroleum products (and “natural gas” and “petroleum products” have the same meanings as in the Energy Act 1976⁽⁴⁾);

“generator”, except in the definition of “hydro generating station” below, means the operator of a generating station;

“hydro generating station” means a generating station which is wholly or mainly driven by water other than stations driven by tidal flows, waves, ocean currents or geothermal sources and the “station” extends to all structures and works for holding or channelling water for a purpose directly related to the generation of electricity together with any turbines and associated generators directly connected to or fed by such common structures or works;

“large hydro generating station” means a hydro generating station with a declared net capacity of more than 10 megawatts;

“renewable sources” means sources of energy other than fossil fuel or nuclear fuel and includes waste provided that it is not waste with an energy content 90 per cent. or more of which is derived from fossil fuel;

“waste” has the meaning given in section 75(2) of the Environmental Protection Act 1990⁽⁵⁾ as that subsection will have effect once it has been amended by paragraph 88 of Schedule 22 to the Environment Act 1995⁽⁶⁾⁽⁷⁾, but does not include gas derived from landfill sites or gas produced from the treatment of sewage.

(3) In the following paragraphs, except in relation to paragraphs (7), (8) and (12), references to fossil fuel do not include references to any fossil fuel content of waste.

(4) Paragraph (11) is to apply where a generating station is fuelled by renewable sources and fossil fuel in order to calculate the respective proportions of electricity generated by that station from renewable sources and from fossil fuel in any period specified by the relevant Authority, but paragraph (11) does not apply to generating stations to which paragraph (10) applies.

(5) Where the renewable sources used to fuel a generating station includes waste (whether or not the generating station is fuelled by waste in combination with other renewable sources or fossil fuel) paragraphs (7), (8) and (9) apply in order to calculate the amount of renewable source electricity which is to be regarded as generated from that waste in any period specified by the relevant Authority.

(6) Paragraph 10 applies where fossil fuel is used only for the purposes specified in that paragraph.

(7) Subject to paragraphs (8) and (9), where a generating station is fuelled by waste, the proportion of electricity generated from waste which is to be regarded as renewable source electricity is 50 per cent. of the proportion of electricity which has been generated by that station from waste provided that the relevant Authority determines that the generator has no reasonable grounds to believe that more than 50 per cent. of the energy content of the waste used is derived from fossil fuel.

(8) On request by a generator who considers that more than 50 per cent. of the electricity generated from waste by that station has been generated from waste which is not or has not been derived from fossil fuel, the relevant Authority shall determine in accordance with paragraph (12) the proportion of electricity so generated from such waste and that proportion shall be regarded as renewable source electricity.

(9) Where the relevant Authority determines that a generating station is fuelled by waste at least 98 per cent. of the energy content of which is derived from plant or animal substances (including agricultural, forestry, wood and human wastes or residues), the amount of electricity generated from

(4) 1976 c. 76.

(5) 1990 c. 43.

(6) 1995 c. 25.

(7) At the time of making these Regulations paragraph 88 of Schedule 22 to the Environment Act 1995 has not yet been brought into force, but is to be treated as if it had been in this regulation.

such waste which is to be regarded as renewable source electricity is 100 per cent. of the electricity which is generated from such waste.

- (10) Where a generating station uses fossil fuel only for one or more of the following purposes—
- (a) the ignition of gases of low or variable calorific value;
 - (b) the heating of the combustion system to its normal operating temperature or the maintenance of that temperature;
 - (c) emission control;

provided that the relevant Authority determines that in any year the energy content of the fossil fuel used for the above purposes in the generating station does not exceed 10 per cent. of the energy content of the renewable sources used, that fossil fuel shall be treated as if it were the renewable source used as the remainder of the fuel in the generating station.

(11) Where a generating station is fuelled partly by renewable sources and partly by fossil fuel, (with the exception of generating stations to which paragraph (10) applies) the respective proportions of electricity which have been generated from fossil fuel and any one or more renewable sources shall be determined by the relevant Authority in the manner described in paragraph (12), and the proportion of electricity generated from renewable sources other than waste (to which paragraphs (7), (8) and (9) apply) shall be regarded as renewable source electricity.

(12) In any case where the relevant Authority is required or requires to determine the proportions of electricity generated from either fossil fuel or any one or more renewable sources, it shall do so by reference to the energy content of the relevant fuels.

(13) Where the amount of electricity generated by a hydro generating station has been increased due to the flow rate, height or pressure of water being artificially increased as a result of pumping, the amount of renewable source electricity generated by that station shall be calculated by deducting from the amount of electricity generated by the station any electricity which has not been generated from renewable sources which is used for such pumping.

(14) For the purposes of the Act the amount of a supply of renewable source electricity is to be calculated at the point at which such electricity is first delivered from a generating station to a distribution or transmission system within the United Kingdom (excluding territorial waters).

(15) Where the relevant Authority is required to make any determination under this regulation it shall only be so required once it has been provided with adequate information on which to base its decision.

48.—(1) A quantity of electricity constitutes “renewable source electricity” for the purposes of paragraphs 19 and 20 of the Act only if and to the extent that it complies with regulation 47 and is the subject of a certificate (a “levy exemption certificate”) issued by the relevant Authority to confirm that the requirements of regulation 47 are satisfied in relation to that quantity.

(2) Each levy exemption certificate (“LEC”) shall carry a unique identifying reference (“identifier”).

(3) The relevant Authority need not issue a LEC in relation to any quantity of electricity under paragraph (1) if—

- (a) the person who generates that electricity does not provide the relevant Authority with such information, particulars, records and declarations as it may require for the purposes of that paragraph or regulation 47;
- (b) the person who generates that electricity does not, if so required, provide the relevant Authority with updated readings from any relevant electricity meter;
- (c) any person authorised by the relevant Authority has not, on request, been granted access at any reasonable time to the premises from where that electricity is generated;

- (d) any person authorised by the relevant Authority has not, on request and having been granted access to premises in accordance with sub-paragraph (c), been permitted—
 - (i) to inspect or test anything that is on those premises, and
 - (ii) to inspect any records that are on those premises, connected with the generation or supply of that electricity;
- (e) any person authorised by the relevant Authority has not, on request, been granted access to any premises at any reasonable time to take updated readings from any relevant electricity meters;
- (f) any one or more of sub-paragraphs (a) to (e) have not been satisfied within such time as the relevant Authority considers reasonable for the purpose in question; or
- (g) the relevant Authority is for any reason not satisfied that the electricity in question should be regarded as renewable source electricity.

Conditions for exemption from CCL

49.—(1) Any part of a quantity of electricity that is the subject of a LEC shall be regarded as never having been renewable source electricity capable of being the subject of exempt renewable supplies for the purposes of paragraph 19 of the Act if one or more of the conditions prescribed in paragraphs (2), (3), (4) and (5) are not fulfilled.

- (2) The electricity must not be allocated to a supply to a person who—
 - (a) intends to cause the electricity to be exported from the United Kingdom, and
 - (b) has no intention to cause it to be brought back into the United Kingdom afterwards.
- (3) Should the electricity be allocated to some supply pursuant to some renewable source contract, the supplier must inform the relevant Authority of this fact and of the relevant LEC identifier.
- (4) At any time up to 6 years after the day the electricity is generated—
 - (a) the person who generated it must provide the relevant Authority on request with readily legible records relating to and detailing—
 - (i) the generation process,
 - (ii) the supplies made of that electricity and the relevant recipients,
 - (iii) the relevant levy exemption certificates, and
 - (iv) any relevant information, particulars or records referred to in regulation 48(3)(a);
 and
 - (b) any supplier of that electricity must provide the relevant Authority on request with readily legible records relating to and detailing—
 - (i) the supplies he received or made of that electricity,
 - (ii) the relevant recipients of any supplies he made of that electricity, and
 - (iii) the relevant levy exemption certificates.
- (5) The following time limits apply as part of the conditions described in this regulation—
 - (a) paragraph (3)—the supplier must comply within such reasonable time as the relevant Authority allows for this purpose;
 - (b) paragraph (4)—the generator and the supplier, as appropriate, must comply within such reasonable time as the relevant Authority allows for this purpose.

50. Supplies shall not be regarded as exempt renewable supplies for the purposes of paragraph 19 of the Act unless—

- (a) the supplier provides the recipient with a written notice for the duration of the renewable source contract, updated as necessary, setting out how to identify those supplies of electricity that—
 - (i) are or will be made under the renewable source contract, and
 - (ii) are or will be referred to on a climate change levy accounting document (or an invoice) issued in respect of those supplies;
- (b) the supplier retains a copy of each such notice for 6 years starting from the day after it is provided to the recipient;
- (c) the supplier supplies a copy of any such notice to the Commissioners no later than the fourteenth day after the Commissioners so request.

51.—(1) The exemption provided for by paragraph 19(1) of the Act (exemption: supply of electricity from renewable sources) shall only be given effect if the supplier, and each other person (if any) who is a generator of any renewable source electricity allocated by the supplier to supplies under the renewable source contract in question, has delivered a copy of the relevant notice to the relevant Authority.

(2) In paragraph (1), “relevant notice” refers to the written notice mentioned in paragraph 19(1) (d) of the Act relating to the supply of electricity and contract in question (notice to Commissioners agreeing to fulfil conditions of exemption).