

**EXPLANATORY MEMORANDUM TO THE
VALUE ADDED TAX (AMENDMENT) (NO. 4) REGULATIONS 2004**

2004 No. 3140

1. 1.1 This explanatory memorandum has been prepared by HM Customs and Excise and is laid before the House of Commons by Command of Her Majesty.

1.2 This memorandum contains information for the Select Committee on Statutory Instruments.

2. General Description

2.1 These Regulations amend the Value Added Tax Regulations 1995 (S.I. 1995/2518) (the “principal Regulations”) as described below.

3. Description of Part 2

3.1 The amendments in Part 2 amend Part XI (Time of supply and time of acquisition) and Part XX (Repayments to community traders) of the principal Regulations.

3.2 They relate to supplies of natural gas and electricity treated under section 9A of the Value Added Tax Act 1994 (c. 23) as being made by the person to whom they are supplied.

3.3 Regulation 4 establishes the time at which such supplies are to be treated as being made.

3.4 Regulations 5 and 6 provide for consequential amendments to the principal Regulations.

4. Description of Part 3

4.1 The amendments in Part 3 amend Part XIV (Input tax and partial exemption) of the principal Regulations.

4.2 Regulation 7 amends regulation 103 of the principal Regulations by removing paragraphs (2) and (3).

4.3 Regulation 8 introduces a new regulation 103B into the principal Regulations to replace the old regulation 103(2) and (3). This is wider in scope than the previous provisions. It deals with the attribution of input tax on certain costs as specified which are used partly to make incidental financial supplies (such as share issues) to customers within the EU and partly to make any other supplies (which could be similar supplies to customers outside the EU). It provides that, in such cases, attribution is to be based solely on the use or intended use of the costs concerned.

4.4 Regulations 9 to 14 provide for consequential amendments to the principal Regulations.

5. Description of Part 4

5.1 Part 4 amends Part XXI (Repayments to third country traders) of the principal Regulations.

5.2 Regulation 15 amends regulation 190(1) of the principal Regulations.

5.3 The effect of the amendment is to add a new category to the list in regulation 190(1) of types of expenditure on which VAT refunds will not be made to a business established outside the EU. The new category is that of VAT on expenses used in making supplies of financial and insurance services to customers located outside the EC, or of financial and insurance services related to the export of goods, as described in article 3 of the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121).

6. Matters of special interest to the Select Committee on Statutory Instruments

6.1 These Regulations have been made on 30th November 2004 and laid on 2nd December 2004 and come into force in accordance with regulation 2. As the Commissioners wish to prevent forestalling by taxpayers seeking to avoid the effects of the changes provided for by regulations 8 and 15, it has been necessary to breach the 21 day rule so as to ensure that Parts 3 and 4 of the Regulations have immediate effect.

7. Legislative Background to Part 2

7.1 The amendments provided for by Part 2 of these Regulations arise as a result of the implementation of a number of measures which are required to implement EC Directive 2003/92/EC (O.J. L260, 11.10.2003. p 0008-0009). A transposition note in relation to the implementation is attached at Annex A. Those measures will all take effect from 1 January 2005 and amend the VAT rules in relation to supplies of natural gas and electricity. They are:

- section 9A of the Value Added Tax Act 1994 inserted by section 21 of the Finance Act 2004 (c. 12);
- the Value Added Tax (Place of Supply of Goods) Order 2004;
- the Value Added Tax (Reverse Charge) (Gas and Electricity) Order 2004;
- the Value Added Tax (Imported Gas and Electricity) Relief Order 2004; and
- the Value Added Tax (Removal of Gas and Electricity) Order 2004.

7.2 Regulation 4 amends the principal Regulations by adding a new regulation 82A.

7.3 Section 9A of the Value Added Tax Act 1994 introduces a new provision under which recipients of supplies of gas through the natural gas distribution network

or of electricity will, in certain circumstances, be treated as the person making the supply. As a result they will be responsible for accounting for the VAT on that supply. The new regulation 82A establishes the time of that supply as being either when the customer pays for the goods or, in cases where there is non-monetary consideration, on the last day of the customer's VAT accounting period in which the goods were removed or made available. This mirrors the existing regulation 82 which applies in similar circumstances to services treated as being supplied by the recipient

7.4 Regulations 5 and 6 provide for consequential amendments to the principal Regulations.

7.5 The Draft Council Directive amending Directive 77/388 EEC is cited in the House of Commons, European Scrutiny – Sixth Report, printed on 8 January 2003, at paragraph 13 (reference (24085) 15369/02 COM (02) 688)) and considered not to raise questions of sufficient legal or political importance to warrant a substantive report to the House.

7.6 The proposal cleared scrutiny in the House of Lords and is cited in Part II i of the House of Lords, European Union – Progress of Scrutiny Report, printed on 19 February 2003 (reference 15369/02).

8. Legislative background to Part 3

8.1 Part 3 of these Regulations is made by the Commissioners of Customs and Excise in exercise of their powers under section 26(1), (3) and (4) of the Value Added Tax Act 1994. Section 26(1) provides that the amount of input tax to which a person is entitled to credit at the end of any period shall be so much of the input tax for that period as is allowable by or under regulations as being attributable to the supplies specified in subsection (2) (taxable supplies etc).

8.2 Section 26(3) empowers the Commissioners to make regulations for securing a fair and reasonable attribution of input tax to the supplies specified in subsection (2).

8.3 Section 26(4) allows the Commissioners when making regulations to make different provision for different circumstances and for different descriptions of goods and services and to include such incidental and supplementary provisions as appear to them necessary or expedient.

9. Legislative background to Part 4

9.1 Part 4 of these Regulations is made under powers conferred on the Commissioners of Customs and Excise by section 39 of the Value Added Tax Act 1994. It completes the implementation of Council Directive 86/560/EEC (OJ L326, 21.11.86, p 40.) (the Thirteenth Directive), giving effect to Article 2. A transposition note is attached at Annex B.

9.2 The draft Thirteenth Directive (COM(82)0443 Final) was submitted to the Council of Ministers on 19th July 1982 and to the European Parliament on 22nd July 1982 and was cleared from scrutiny in the House of Lords on 16th November 1982 and the House of Commons on 24th November 1982. Amendments to the draft Thirteenth

Directive (COM(83)0413 Final) were cleared from scrutiny in the House of Lords on 5th August 1983 and in the House of Commons on 2nd November 1983.

9.3 The general rules on deduction of VAT on expenses are contained in Article 17 of the Sixth VAT Directive (Council Directive 77/388/EEC). These are implemented in UK law in sections 24 to 26A of the Value Added Tax Act 1994, together with supporting Orders and regulations. The effect of these rules is that, in most circumstances, a business established in the UK can deduct the VAT on its expenses where these relate to taxable, but not exempt, supplies that it makes.

9.4 An exception to the rule that input tax cannot be recovered when it is incurred on expenses used in making exempt supplies, occurs in the case of certain financial and insurance services. When such services are supplied by a supplier within the EU to a customer outside the EU, or when they are directly related to the export of goods from the EU, any VAT incurred on the related expenses is deductible by an EU supplier with the result that there is no “sticking tax” on such exported services. This exception to the normal rules is set out in Article 17(3)(c) of the Sixth Directive, and enacted in UK law in the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121) made under section 26(2)(c) of the Value Added Tax Act 1994.

9.5 EC law also provides for VAT on expenses to be refunded to businesses that are established outside the EU, and make no supplies within the EU other than supplies which do not require registration for VAT purposes, (for instance because any VAT on the supplies is accounted for by customers using the “reverse charge” mechanism). The EC law concerned is the Thirteenth Directive and it is implemented in the UK by section 39 of the Value Added Tax Act 1994 and regulations 185 to 197 of the principal Regulations.

9.6 Regulation 190 specifies UK VAT which cannot be refunded to non-EU businesses. At the moment, this is limited to UK VAT which a UK VAT-registered business could not claim. Regulation 15 amends regulation 190 to add the new category described in paragraphs 5.3 and 9.4 above. The reasons for this change are given under the heading “Policy background to Part 4” below.

10. Extent

10.1 This instrument applies to all of the United Kingdom.

11. Policy background to Part 2

11.1 These changes to the EC VAT rules are intended to modernise and simplify the VAT system as it applies to supplies of natural gas and electricity. They reflect an increasing liberalisation of the gas and electricity markets through deregulation, and an increase in trade between Member States.

11.2 In the past, these problems have had little impact since the gas and electricity industries were almost completely state-owned and trade was limited to within the borders of each Member State. Since the establishment of the internal market and the increasing liberalisation of the gas and electricity market, these problems have become more evident.

11.3 The changes are aimed at standardising EC treatment and reducing the need for suppliers to register in other Member States. This is to be achieved through changes in the place of supply and by transferring responsibility to account for VAT in certain circumstances to the person receiving the supply. These new arrangements under which the recipient of the supply takes over responsibility for VAT accounting require additional time of supply rules and other consequential amendments to existing regulations.

11.4 The changes have been welcomed by the UK gas and electricity industries.

12 Policy background to Part 3

12.1 Financial supplies, including issuing and dealing in shares, are generally exempt from VAT. Although, in principle, VAT on related purchases should not be recoverable, tax advisers have devised schemes which allow their clients to unfairly deduct input VAT which relates to incidental share transactions and similar supplies.

12.2 Such schemes require service providers such as financial advisers and lawyers to artificially mix in other general types of supplies (such as supplies of general legal or taxation advice) with the services they provide in relation to the financial transactions. This has the effect of distorting the figures with the result that input tax incurred in relation to the exempt financial supplies (which would normally be irrecoverable) becomes residual input tax and is, at least in part, recoverable depending upon the terms of the taxable person's partial exemption method.

12.3 Where, as is often the case with such schemes, the taxable person is using the method prescribed in regulation 101 or a similar special method to calculate input VAT entitlement, he can achieve a disproportionate recovery because incidental financial supplies are not taken into account in the calculation.

12.4 The Commissioners had relied on regulation 103 of the principal Regulations to combat such schemes. In particular, regulation 103(2) served to prevent such schemes from working where at least one of the taxable person's customers was based outside the EU. However, this does not go far enough and there is still scope for avoidance in other cases. As a result, the Commissioners have taken steps in regulations 7 and 8 to revise and extend the provisions which were contained in the old regulation 103(2) and (3) to cover other situations such as where all the taxable person's customers are based within the EU (including the UK).

12.5 The effect of the measures is to ensure a fair recovery rate of input VAT incurred on purchases that are used by a taxable person to make incidental financial supplies. This has been achieved by introducing a new free-standing provision to deal with the attribution of such input tax.

12.6 This provision is widely drawn and, where it applies, it provides for a use based attribution of the input tax in question. It covers purchases which are used partly to make incidental financial supplies to customers within the EU as well as those which are used partly to make such supplies to customers outside the EU. In addition, it specifies the types of purchases concerned (supplies of services and related goods).

13. Policy background to Part 4.

13.1 In the case of businesses established outside the EU, the Thirteenth Directive defines the categories of VAT for which the right of deduction is given, by cross-referring to the relevant parts of Article 17 of the Sixth Directive. It does not extend the right of deduction to VAT incurred in respect of the type of financial and insurance services described in Article 17(3)(c) of the Sixth Directive. This means that a business established outside the EU has no right of deduction in respect of such services when they are supplied to customers who are also located outside the EU.

13.2 The Court of Appeal has ruled that UK law does not properly reflect EC law in respect of this type of expenditure by businesses established outside the EU. Complex tax avoidance schemes can potentially take advantage of this shortcoming in UK law, by routing supplies through chains of associated companies and submitting claims for refund under the Thirteenth Directive for VAT that would normally be non-deductible because they essentially relate to exempt services supplied and consumed within the UK.

13.3 Regulation 15 therefore serves to correct a defect in UK implementation of the Thirteenth Directive by ensuring that claims will not be refunded to businesses outside the EU where the Directive gives no right of deduction.

14. Impact

14.1 A Regulatory Impact Assessment prepared in relation to Part 2 of these Regulations is attached at Annex C.

14.2 A Regulatory Impact Assessment has not been prepared in relation to Parts 3 and 4 of these Regulations as they have no impact on UK business, charities or voluntary bodies.

14.3 The impact of Part 2 of these Regulations on the public sector is minimal.

14.4 The impact of Parts 3 and 4 of these Regulations on the public sector is nil.

15. Contact

15.1 Bob Gilligan at HM Customs & Excise Tel: 020 7147 0276 or e-mail: bob.gilligan@hmce.gsi.gov.uk can answer any queries regarding Part 2 of these Regulations.

15.2 Don Bryant at HM Customs and Excise Tel: 020 7147 0066 or e-mail: donald.bryant@hmce.gsi.gov.uk can answer any queries regarding Part 3 of these Regulations.

15.3 Mark Alderton at HM Customs and Excise Tel: 01737 734703 or e mail mark.alderton@hmce.gsi.gov.uk can answer any queries regarding Part 4 of these Regulations.

ANNEX A

MEMORANDUM SHOWING THE METHOD OF IMPLEMENTATION AND RESPONSIBILITY FOR EACH OF THE ARTICLES OF COUNCIL DIRECTIVE 2003/92/EC – VAT CHANGES TO THE RULES ON THE PLACE OF SUPPLY OF GAS AND ELECTRICITY

Directive 2003/92/EC amends the EC Sixth VAT Directive 77/388/EC (“the Directive”).			
Article	Objectives	Implementation	Responsibility
1(1)	Amends Article 8 of the Directive by introducing new place of supply rules for supplies of natural gas through the natural gas distribution system, and of electricity.	<p>This is implemented as Part 3 of the Value Added Tax (Place of Supply of Goods) Order 2004 (SI 2004/3148) under which the place of supply becomes:</p> <ul style="list-style-type: none"> • the place where a wholesaler (purchasing for resale) has established their business, or • in all other cases where the gas or electricity is consumed*. <p>(*If any part is not in fact consumed, the place of supply reverts to the place where the recipient has established their business.)</p>	H M Customs & Excise
1(2)	Amends Article 9 of the Directive by introducing a new place of supply rule for supplies of services arising from the operation of natural gas and electricity distribution systems.	<p>This is implemented by The Value Added Tax (Reverse Charge) (Gas and Electricity) Order 2004 (SI 2004/3149). As a result the place of supply of such services in cases where:</p> <ul style="list-style-type: none"> • the recipient is outside the EC, 	H M Customs & Excise

		<p>or</p> <ul style="list-style-type: none"> in business in another EC country, <p>becomes the place where the customer has established their business.</p>	
1(3)	Amends Article 14 of the Directive by adding gas imported through the natural gas distribution system, and electricity to the categories of goods which are exempt from VAT when imported from a place outside the EC.	This is implemented by the Value Added Tax (Imported Gas and Electricity) Relief Order 2004 (SI 2004/3147)	H M Customs & Excise
1(4) and 1(5)	Both amend Article 21 of the Directive. As a result, a VAT –registered recipient of a supply of gas (through the natural gas distribution system) or of electricity, is liable to account for the VAT on the supply in cases where the supplier is outside the Member State.	This is implemented by section 9A to the Value Added Tax Act 1994 as inserted by section 21 of the Finance Act 2004.	H M Customs & Excise
1(6)	Amends Article 22 of the Directive by adding suppliers of gas and electricity in cases where the tax on the supply is payable by the recipient, to those who need not be issued with an identification number.	No action required.	H M Customs & Excise
1(7)	Amends Article 28 of the Directive. Under Article 28a(5)(b) a movement of own goods between Member States is to be treated as a supply. Movements of gas through the natural gas distribution system or of electricity, are added to the categories of goods excluded from this provision.	This is implemented by the Value Added Tax (Removal of Gas and Electricity) Order 2004 (SI 2004/3150).	H M Customs & Excise
2	Requires Member States to implement Directive 2003/92/EC by 1 January 2005.	The legislative changes made as a result of this Directive all take effect from 1 January 2005.	H M Customs & Excise
3	Implements Directive	No action required	H M Customs

	2003/92/EC on the day of publication in the Official Journal of the European Union		& Excise
4	Addresses Directive 2003/92/EC to Member States	No action required	H M Customs & Excise

ANNEX B

MEMORANDUM SHOWING METHOD OF IMPLEMENTATION AND RESPONSIBILITY FOR AN AMENDMENT TO UK LAW IMPLEMENTING ARTICLE 2 OF THE THIRTEENTH VAT DIRECTIVE (COUNCIL DIRECTIVE 86/560/EEC) – ARRANGEMENTS FOR THE REFUND OF VALUE ADDED TAX TO TAXABLE PERSONS NOT ESTABLISHED IN THE EUROPEAN UNION

Article	Purpose	Implementation	Responsibility
		<p>The Thirteenth VAT Directive (Council Directive 86/560/EEC) is already implemented in UK law, by section 39 of the Value Added Tax Act 1994 (c. 23) and regulations 185–197 of the Value Added Tax Regulations (S.I.1995/2518). The Directive and implementing law allow businesses not established in the EU to obtain refund of VAT on expenditure used in making defined categories of supply, which they incur within the Member States.</p> <p>Regulation 15 of SI 2004/3140 amends a defect in the UK implementing rules for the Thirteenth VAT Directive refund scheme.</p>	
2(1)	Defines categories of VAT which are to be refunded to businesses established outside the EU	<p>Article 2 of the Thirteenth VAT Directive sets out the categories of expenditure on which VAT is refunded to businesses established outside the EU, when they are not required to register in a Member State, (either because they make no supplies in the EU, or if they do, output tax on those supplies is accounted for by their customers using the “reverse charge” mechanism). The expenditure on which VAT refund is allowed is that used in making the supplies described in Article 17(3)(a) and 17(3)(b) of the Sixth Directive (Council Directive 77/388/EEC). There is no equivalent right of deduction under the Thirteenth VAT Directive for expenditure used in supplying the services described in Article 17(3)(c) of the Sixth Directive.</p> <p>Article 17(3)(c) describes certain types of financial services, which are normally exempt and so attract no deduction of input tax on related expenditure, but which do attract deduction of input tax when they are supplied by a supplier within the EU to a customer located outside the EU, or where they are directly related to exports of goods outside the EU. These are therefore the services for which the Thirteenth VAT Directive gives no right of deduction to suppliers established outside the EU. For the purposes of UK law, Article 17(3)(c) of the Sixth Directive is implemented by the Value Added Tax (Input Tax) (Specified Supplies) Order 1999 (S.I. 1999/3121). UK law implementing the Thirteenth VAT Directive needs to be clarified, so it is clear that, whereas a right to deduct VAT on expenses used in making this type of supply exists for suppliers who are established within the EU, there is no equivalent right to deduct VAT on this category of expenses when they are incurred by suppliers established outside the EU and not</p>	The Commissioners of Customs and Excise State – through new Regulations

Article	Purpose	Implementation	Responsibility
		<p>registered for VAT in the UK.</p> <p>This clarification is achieved by amendment to regulation 190(1), to specify that VAT on expenses used in making the types of supply described in Article 3 of the (Input Tax) (Specified Supplies) Order 1999 will not be refunded under the Thirteenth VAT Directive mechanism to businesses established outside the EU.</p>	

REGULATORY IMPACT ASSESSMENT FOR CHANGES TO THE VAT RULES ON THE PLACE OF SUPPLY OF GAS AND ELECTRICITY

Submitted by HM Customs & Excise

March 2004

1. Title

This is the Regulatory Impact Assessment (RIA) for changes to the VAT rules on place of supply for supplies of natural gas through the gas distribution system and electricity.

2. Purpose and intended effect of the measure

Sales of gas and electricity are supplies of goods for VAT purposes. Under the present EC rules on place of supply of goods, supplies of gas and electricity being despatched or transported to the customer are made in the country where the despatch or transport to the customer begins. Before the liberalisation of the gas and electricity markets in the EC, there was no problem in determining the place of supply, because the gas and electricity markets were mainly national markets limited to trade within each country's borders. Where a distributor made an occasional cross-border supply, he would register in the other Member State.

In a liberalised market, the nature of electricity and gas make it difficult to determine where a supply takes place, as physical flows do not necessarily coincide with the contractual relationship between the seller and buyer. In practice, it is almost impossible, considering their characteristics, to trace physically the flows of electricity and gas. This leads to problems in applying the current VAT rules on supplies of goods between traders in different Member States. Also, suppliers have difficulties in obtaining satisfactory evidence that the gas or electricity has been removed from their Member State since gas and electricity are not transported by traditional means i.e. lorry, train or vessel.

International trading in wholesale gas and electricity is still in its early days. In addition to reducing compliance costs for those already trading, the changes are expected to promote the future growth of this market by removing the compliance barriers presented under the current rules.

The changes support the Government's desire to promote the enterprise agenda particularly in the utilities and energy sectors. The Chancellor said at the Inner City 100 awards ' And as we promote the enterprise agenda in Britain, so we must do the same in Europe- this involves opening up of financial services, utilities, energy, telecommunications and the air transport industry.'

The changes implement a new EC Directive that amends the place of supply of natural gas supplied through the gas distribution system, and electricity. Supplies made before the final supply for use and consumption will take place where the customer has established his business. Supplies made to customers for use and consumption will take place where the gas or electricity is actually consumed.

There are other measures required to implement the changes effectively:

- A 'reverse-charge' will oblige the VAT registered customer to account for any VAT due himself where the supplier and customer are not VAT-registered in the same

country, thereby removing the need for suppliers to register for VAT in other Member States.

- Supplies of services of access to, and use of, distribution networks will be taxed where the customer has established his business, when the services are supplied to customers outside the EC or to taxable persons established in another Member State.
- No VAT will be charged on the import from outside the EC of natural gas into the distribution system, or electricity.

3. Benefits

The changes have benefits for both UK businesses and Tax Administrations:

- They ensure that all Member States apply the same rules, placing UK businesses on an equal footing with their competitors;
- They remove the uncertainty of trading under different VAT rules in each Member State, addressing concerns raised by the industries about inconsistencies in current treatment between Member States.
- Wholesalers of natural gas and electricity, and suppliers to VAT-registered consumers will no longer have to register for VAT in other Member States in respect of these supplies because of the introduction of the reverse-charge. This is particularly important for UK industry, since it significantly reduces their administrative burden and removes the high compliance cost of appointing fiscal agents in other Member States.
- Reduces the number of UK VAT registrations required for overseas suppliers of gas and electricity with only negligible revenue implications.

4. Impact on consumers and small businesses

No significant changes for UK private and business consumers of natural gas and electricity or small businesses are expected. The UK market is largely deregulated and therefore a non-UK supplier can already supply UK consumers providing the supplier fully complies with the conditions laid down by the regulator, Ofgem, which includes having a physical presence in the UK.

5. Competition

The changes create a level playing field by requiring all non-EC suppliers to register where they make supplies to non-VAT-registered customers in a Member State. When they make supplies to VAT registered customers, wholesalers or consumers, the customers will account for the VAT due under the 'reverse-charge' mechanism.

6. Compliance Costs for Business

There will be a cost saving to both UK and EC businesses that do not have to register in the other Member States where they are making supplies of natural gas and electricity. The changes will create more certainty on the place of taxation and, therefore, simplify the application of the rules.

(i) Non-UK businesses

It is estimated that the 15 non-UK businesses that trade in natural gas or electricity and are currently registered for VAT in the UK will no longer be required to be registered. The average compliance costs of such registrations in the UK are estimated at between £25,000 and £30,000 per year. This gives a total saving in the region of 0.5 million each year by removing the liability to register for VAT in the UK. Traders will also receive a similar cost benefit in respect of each Member State where they are currently registered.

(ii) UK businesses

It is estimated that the measure will provide compliance cost savings for between 10 to 15 UK businesses from no longer having to be registered in other Member States. Average benefits, taking account of numbers of registrations and different costs, are estimated to range between £150,000 - £200,000 each year, giving a total annual cost saving of between £1.5 million and £3 million per year.

7. Other costs

(i) Costs to Customs

Customs may incur costs in changing their computerised import entry system because no VAT is charged on the import of gas into the natural distribution system or electricity.

ii) Environmental impact

None

(iii) Gender impact

None

(iv) Other (including political/presentational)

None

8. Consultation with Business

Representatives of the UK gas and electricity industries were consulted during the negotiation of the EC Directive. They enthusiastically welcomed the measure, because it will provide more certainty on the place of taxation and simplify the application of VAT.

9. Monitoring and Evaluation

Customs will consult with the UK industries after the changes have been introduced to establish how they are working in practice.

10. Enforcement and Sanctions

As these changes are welcomed by the industries concerned, it is not envisaged that we will require any special enforcement measures or sanctions.

11. Summary

This measure modernises the VAT rules in view of the increasing liberalisation of the markets, and will provide a clear benefit to UK suppliers. It significantly reduces their VAT burden by removing the requirement to register and account for VAT in other Member States where they are supplying gas or electricity.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

Signed by the responsible Minister: *John Healey*

Date: 11 March 2004.

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