

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE LEVY (GENERAL) (AMENDMENT) REGULATIONS 2007
2007 No. 2903

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.
2. **Description**

The instrument changes the system for administering climate change levy reliefs.
3. **Matters of special interest to the Select Committee on Statutory Instruments**

None
4. **Legislative Background**
 - 4.1 Climate change levy (CCL) is charged on the supply of electricity, gas and some other fuels. It is generally paid by the energy supplier.

(Finance Act 2000 Schedule 6.)
 - 4.2 There are a number of exclusions, exemptions and lower rates.
 - 4.3 For most of these, the customer estimates and certifies entitlement to the supplier. The customer reviews and reconciles the claim at least annually.

(S.I. 2001/838 Part 3 and Schedule 1.)
 - 4.4 The instrument abolishes the requirement for the supplier to receive the certificate before the time of the supply.
 - 4.5 It fully integrates the reduced-rates of CCL (20 per cent of the usual rates) into the existing system.

(This complements the changes made to the primary legislation for reduced-rate supplies by Schedule 2 to the Finance Act 2007 (c. 11) and S.I. 2007/2902 (C. 114), using – where appropriate - the powers to do so for the first time.)
 - 4.6 It removes the references dealing with half-rate supplies (50 per cent of the usual rates) to complement the abolition of the half-rate.

(The latter was done as of 1 April 2006 by section 172(1) of the Finance Act 2006 (c. 25), and see also section 172(8) and S.I. 2007/2901 (C. 113).)
 - 4.7 The exemptions for electricity from renewable sources or combined heat and power stations are administered differently. The instrument abolishes the requirement on authorities certifying such electricity to disregard figures received

after the second month following the one of production. It also removes a spent definition.

- 4.8 The explanatory note to the instrument gives details about how these four groups of amendments are made.
- 4.9 The instrument modifies the detail of arrangements put in place at the inception of CCL in April 2001, or subsequent alterations to those arrangements, and so does not of itself implement Article 6 or any other Article of Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.03, p. 51).

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The imposition of CCL is part of the United Kingdom's effort to combat climate change and play its part in the European Community's obligations under the Kyoto Protocol. The aim is to reduce the UK's greenhouse gas emissions by 12.5% on the 1990 levels by 2008.

Reduced-rate supplies

- 7.2 CCL always afforded favourable treatment to eligible energy intensive businesses that entered into climate change agreements (CCAs) with the Department for Environment, Food and Rural Affairs (Defra). In return for agreeing to meet energy efficiency targets set by Defra, CCA signatories pay the reduced-rates of levy which are 20% of the usual rates.
- 7.3 However, reduced-rate supplies were not subject to the certification regime outlined at paragraph 4.3 and encapsulated within Part 3 of, and Schedule 1 to, the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838).
- 7.4 The reduced-rates could only be applied by energy suppliers once the Commissioners for Revenue and Customs (HMRC) had published details of facilities that were taken to be covered by CCAs.
- 7.5 The amendment made by paragraph 7 of Schedule 2 to the Finance Act 2007 re-determines what a reduced-rate supply is, and removes the requirement on HMRC to publish details of facilities covered by CCAs.
- 7.6 It also makes provision for those Commissioners to make regulations giving effect to reduced-rate supplies.

- 7.7 This instrument integrates reduced-rate supplies into the existing certification system which allows energy intensive businesses that are party to a CCA to claim the reduced-rates once their agreement has been signed by the Secretary of State rather than having to wait for HMRC to publish the relevant details.

Certificates of relief entitlement

- 7.8 A requirement of the certification system was that certificates had to be provided by the consumer to their energy supplier before the supply was made in order for a relief to be given effect. Where due to an administrative oversight the consumer failed to provide the supplier with a certificate, CCL would be charged in full and any relief that could have been applicable was lost.
- 7.9 This instrument abolishes the requirement for the supplier to receive the certificate before the supply is made.

Half-rate supplies

- 7.10 At the introduction of CCL in 2001, energy intensive horticultural producers were not eligible to enter into CCAs under the eligibility criteria contained in the Pollution Prevention and Control Regulations (PPC) (S.I. 2000/1973). CCL therefore contained a transitional 5 year relief (50% of the usual rates) for horticultural producers in recognition of the extent they were subject to international competition, and the energy intensity of the glass-house sector.
- 7.11 Following state aid approval by the European Commission in 2005, eligibility to CCAs was extended to certain energy intensive sectors that were not eligible under the PPC criteria – including the horticultural sector. Horticultural producers became eligible for CCL's reduced-rates. The Finance Act 2006 section 172 removed the half-rates, but some of the secondary legislation could not be removed straight away as it was needed for relief reconciliation purposes. It is no longer needed.
- 7.12 This instrument removes references to half-rate supplies contained in the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838).

Renewable electricity and electricity produced in a combined heat and power station

- 7.13 Electricity generated from qualifying renewable sources or produced in a combined heat and power station is exempt from the levy when supplied to the final consumer by an electricity utility. Eligibility for these exemptions and their application is controlled via a certification system. Each megawatt-hour of qualifying electricity produced by a generator is certified by way of levy exemption certificates (LECs) issued by the certifying authority – for Great Britain and overseas by the Gas and Electricity Markets Authority (Ofgem), and for Northern Ireland and the Republic of Ireland by the Northern Ireland Authority for Energy Regulation (formerly the Office for Regulation of Electricity and Gas (Ofreg)).
- 7.14 Generators notify the certifying authority of electricity production figures in order to obtain LECs in relation to any qualifying electricity they have produced. At

present regulations require that the certifying authorities must disregard production figures received after the second month following the one of production. Where a generator has legitimate reasons for submitting production figures late, the certifying authorities are unable to take that into consideration.

- 7.15 This instrument removes the requirement that the certifying authorities must disregard production figures made known to it beyond the second month following the month of production.

Consultation

- 7.16 The policies have been developed taking into account views informally gathered from climate change agreement signatories, sector associations, representatives of the electricity and gas supply industry and other stakeholders.

8. Impact

- 8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is negligible.

9. Contact

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