

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE LEVY (GENERAL) (AMENDMENT No.2) REGULATIONS
2013

2013 No. 1716

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument corrects a formula in the Climate Change Levy (General) Regulations 2001 (SI 2001/838) ("the principal Regulations"). The formula establishes the quantity of fuel referable to the production of electricity in a combined heat and power (CHP) station on which carbon price support (CPS) rates of climate change levy (CCL) are due. The new formula excludes from the calculation fuel which is used to produce mechanical power.

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

3.1 This instrument corrects a defect in the Climate Change Levy (General) (Amendment) Regulations 2013 (S.I. 2013/713), which amended the principal Regulations as a consequence of the introduction of the carbon price floor. It is being issued free of charge to all known recipients of that instrument

4. Legislative Context

4.1 The Climate Change Levy (General) (Amendment) Regulations 2013 (S.I. 2013/713) amended the principal Regulations to provide for a formula to determine the quantity of fossil fuels that are referable to the production of electricity in a CHP station and on which CPS rates of CCL are due.

4.2 This instrument amends that formula in order to exclude from the calculation fuel which is used to produce mechanical power in a CHP station.

5. Territorial Extent and Application

5.1 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

- *What is being done and why*

7.1 In order to encourage new and additional investment in low-carbon power generation, the Government introduced a carbon price floor from 1 April 2013. Supplies of coal and other solid fossil fuels, gas and liquefied petroleum gas (LPG) used in most forms of electricity generation are liable to CPS rates of CCL. The Government believes that the carbon price floor will build upon the EU Emissions Trading System, which to date has not delivered a sufficiently high and stable carbon price to encourage the investment in low-carbon technology the UK needs to meet its legal obligations.

7.2 At Budget 2012 the Government announced that, to incentivise CHP, supplies of fossil fuels to CHP stations would only be liable to the CPS rates where they are referable to the production of electricity – fuels used to produce non-electrical outputs (mainly heat) would be exempt. Non-electrical outputs can also include mechanical outputs (used for driving fans and pumps, for example), which is produced in a small number of CHP stations.

7.3 Shortly after the introduction of the carbon price floor, it came to light that the formula in secondary legislation used to calculate liability to CPS rates in CHP stations did not exclude fuel used to produce mechanical outputs, contrary to the Government's intention.

- *Consolidation*

7.4 There is no present intention to consolidate the amendments that have been made to the principal Regulations.

8. Consultation outcome

8.1 This legislative amendment has been introduced following representations from the administrators of the CHP Quality Assurance programme.

9. Guidance

9.1 The businesses affected will be contacted directly in relation to this amendment. Public notices on the carbon price floor and CCL will be amended as appropriate.

10. Impact

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note (TIIN) has not been prepared for this instrument as it contains no substantive changes to tax policy.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

David Godfrey at HM Revenue and Customs Tel: 0161 827 0335 or email: dave.godfrey@hmrc.gsi.gov.uk can answer any queries regarding the instrument.