
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend those provisions of the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (the “2015 Regulations”) which address the process of determining whether electricity is EII excluded electricity. EII excluded electricity is electricity supplied to certain industrial users of electricity. Following an application to the Secretary of State these users will have a proportion of the electricity they use excluded from the calculation of their electricity suppliers’ obligations to make payments under the Contracts for Difference (Electricity Supplier Obligations) Regulations [S.I. 2014/2014](#).

Regulation 2(2) contains additional definitions used in these Regulations. Regulation 2(4) sets out substitute drafting for regulations 8 to 13 of the 2015 Regulations, and inserts a new regulation 13A.

The amended regulation 8 makes provision about the certification of an electricity meter as one which measures EII excluded electricity. An application for such certification must be made by a business carrying out a specified activity (an amended list of specified activities is set out in the Schedule). Whether an application is granted will depend upon the calculation of the impact of electricity costs on that person’s business.

The amended regulation 9 makes further provision about the calculation of electricity cost impact on a business by specifying the periods for which data about the business is assessed.

The amended regulation 10 sets out the application process for the certification of an electricity meter.

The amended regulation 11 makes provision about the proportion of electricity measured by a meter which will be excluded. Once the proportion which is being used for a specified activity is determined, this number is multiplied by 0.85 in order to limit the exemption to not more than 85% of electricity used, in order to comply with European Commission guidelines on State aid for environmental protection and energy.

The amended regulation 12 requires a person who has been granted a certificate to notify the Secretary of State in certain specified circumstances which are likely to mean either that the person is not entitled to the certificate, or that the details on the certificate are incorrect. These include where the specified activity is no longer carried out. In those circumstances the Secretary of State may revoke the certificate. A person who has been granted a certificate is also required to regularly notify the Secretary of State stating whether the specified activity is still carried out.

The amended regulation 13 makes provision about the length of time a certificate will be in force. It also makes provision for the Secretary of State to revoke a certificate in certain circumstances, including where the Secretary of State is satisfied that a person is not entitled to a certificate, and where a person has failed to comply with the notification requirements in the amended regulation 12.

There is also a new regulation 13A which allows the CFD Counterparty (a person designated under section 7 of the Energy Act 2013) to share information with the Gas and Electricity Markets Authority in order to facilitate the performance of the latter’s functions in respect of the Feed-in Tariffs Order 2012, the Renewables Obligation Order 2015 or the Renewables Obligation (Scotland) Order 2009 (which relate to other renewable energy schemes).

A full impact assessment of the effect that the CFD regime will have on the costs of business, the voluntary sector and the public sector was produced for the 2015 Regulations. The amendments to the 2015 Regulations contained in these Regulations do not change the background, rationale or objectives of the policy outlined in that Impact Assessment. Both it and a document detailing

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updates to the best estimate of the impact of the CFD regime on electricity bills using the latest data available are available from the Department for Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET, and are published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.