

2020 No. 958

CLIMATE CHANGE LEVY

The Climate Change Agreements (Administration and Eligible Facilities) (Amendment) Regulations 2020

<i>Made</i>	- - - -	<i>7th September 2020</i>
<i>Laid before the House of Commons</i>		<i>8th September 2020</i>
<i>Coming into force</i>	- -	<i>1st October 2020</i>

The Secretary of State, in exercise of the powers conferred by paragraphs 50(3) to (5), 52D(1) to (4), 52E(1) and (2), 52F(1) and 146(7) of Schedule 6 to the Finance Act 2000(a), makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Climate Change Agreements (Administration and Eligible Facilities) (Amendment) Regulations 2020.

(2) These Regulations come into force on 1st October 2020.

Amendment of the Climate Change Agreements (Administration) Regulations 2012

2.—(1) The Climate Change Agreements (Administration) Regulations 2012(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) omit the following—

- (i) both definitions of “base year”;
- (ii) the definition of “greenfield facility”;

(b) in the definition of “target period”—

- (i) in paragraph (c) omit “or”;
- (ii) at the end insert—

“‘(e) 1st January 2021 to 31st December 2022;”;

(c) after the definition of “target period 4” insert—

““target period 5” means the target period from 1st January 2021 to 31st December 2022;”.

(3) In regulation 12 (terms to be included in an underlying agreement relating to the buy-out fee)—

(a) 2000 c. 17. Paragraphs 52D to 52F were inserted by the Finance Act 2012, s. 207(b), Schedule 31, paragraphs 1 and 9. There are amendments to paragraph 146 not relevant to these Regulations.

(b) S.I. 2012/1976; relevant amending instruments are S.I. 2013/508, S.I. 2016/1189.

- (a) in paragraph (2)(c), in the formula—
 - (i) in paragraph (i)—
 - (aa) for “or £14” substitute “£14”;
 - (bb) after “target period 4” insert “, or £18 where the finding is of a failure to meet a target for target period 5”;
 - (ii) in paragraph (ii) omit “and”;
 - (iii) for paragraph (iii) substitute—
 - “(iii) S, for target periods 1 to 4, in units of tCO₂ equivalent represents any surplus; and
 - (iv) S, for target period 5, is zero.”;
 - (b) in paragraph (2)(d), in paragraph (i) of the formula—
 - (i) for “or £14” substitute “£14”;
 - (ii) after “target period 4” insert “, or £18 where the finding is of a failure to meet a target for target period 5”.
- (4) In regulation 12A (terms to be included in an umbrella agreement relating to the buy-out fee)—
- (a) in paragraph (2), for “or target period 4” substitute “, target period 4 or target period 5”;
 - (b) in paragraph (3), for the formula substitute—
 - “ $A \times (W - S)$

where—

 - (i) A is £14 for target period 3 or target period 4, or £18 for target period 5;
 - (ii) W in units of tCO₂ equivalent represents the amount by which the emissions for the target period exceed the target;
 - (iii) S, for target periods 1 to 4, in units of tCO₂ equivalent represents any surplus; and
 - (iv) S, for target period 5, is zero.”;
 - (c) in paragraph (4), for the formula substitute—
 - “ $A \times W$

where—

 - (i) A is £14 for target period 3 or target period 4, or £18 for target period 5; and
 - (ii) W in units of tCO₂ equivalent represents the amount by which the emissions for the target period exceed the target.”.
- (5) After regulation 14 insert—

“Power to vary an agreement

14A.—(1) The administrator may vary an agreement to take account of any changes in the terms specified by these Regulations from time to time as terms which must be included in agreements.

(2) If the administrator varies an umbrella agreement, the administrator must also vary each underlying agreement with which it forms a combination of agreements for the purposes of paragraph 48(a) of Schedule 6.

(3) If the administrator varies an umbrella agreement, the administrator must issue a varied agreement to the sector association which is a party to that agreement.

(a) Paragraph 48 of Schedule 6 to the Finance Act 2000 was amended by the Finance Act 2012 (c. 14), s. 207(b) and Schedule 31, paragraphs 1 and 7.

(4) If the administrator varies an underlying agreement, the administrator must issue a varied agreement to the operator which is a party to that agreement.

(5) A varied agreement must specify the date on which a variation under this regulation takes effect.”.

(6) In regulation 15 (financial penalties)—

(a) in paragraph (2), after “base year” in both places it occurs insert “for the relevant target period”;

(b) for paragraph (3)(b) substitute—

“(b) whichever of the following applies—

(i) £12 per tCO₂ equivalent of the difference between the actual emissions and the reported emissions for target period 1, target period 2, target period 3 or target period 4;

(ii) £18 per tCO₂ equivalent of the difference between the actual emissions and the reported emissions for target period 5.”;

(c) at the end insert—

“(5) In this regulation—

“base year”, for a relevant target period, means—

(a) for a target unit which includes a greenfield facility, the 12 month period starting on the date of an underlying agreement which provides for that target period;

(b) for a target unit which does not include a greenfield facility, a 12 month period which—

(i) ends before the date of an underlying agreement which provides for that target period or before the date an underlying agreement is first varied to provide for that target period; and

(ii) is agreed between an operator and the administrator before they enter into the underlying agreement or before the underlying agreement is first varied to provide for that target period;

“greenfield facility” means a facility which started to carry out the process by virtue of which it is a facility within the meaning of paragraph 50 of Schedule 6 during the 12 month period ending on the date the operator applies for the facility to be covered by an agreement;

“relevant target period” means—

(a) for a penalty imposed under paragraph (1)(a)—

(i) for failure to provide information in accordance with regulation 14(2)(a) or (2)(b)(i), the target period in respect of which the request for information was made;

(ii) for failure to provide information in accordance with regulation 14(2)(b)(ii), the target period during which the request for information was made, or if the request was made after the end of all target periods to which the underlying agreement applies, the last target period to which the agreement applies;

(b) for a penalty imposed under paragraph (1)(c)—

(i) for providing inaccurate information under regulation 14(2)(b)(i), the target period in respect of which the request for information was made;

(ii) for providing inaccurate information under regulation 14(2)(b)(ii), the target period during which the request for information was made, or if the request was made after the end of all target periods to which the underlying agreement applies, the last target period to which the agreement applies;

(c) for a penalty imposed under paragraph (1)(d), the target period during which the notification was required to be made, or if the notification was required to be

made after the end of all target periods to which the underlying agreement applies, the last target period to which the agreement applies.”.

Amendment of the Climate Change Agreements (Eligible Facilities) Regulations 2012

3.—(1) The Climate Change Agreements (Eligible Facilities) Regulations 2012(a) are amended as follows.

(2) In regulation 1 (citation, commencement and expiry), in paragraph (3), for “2023” substitute “2025”.

7th September 2020

Kwasi Kwarteng
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the scheme providing for a reduced rate of Climate Change Levy until 31st March 2025. Part IV of Schedule 6 to the Finance Act 2000 makes provision for a reduced rate of Climate Change Levy to be charged if a facility which receives supplies of energy is certified as being covered by a Climate Change Agreement for a certification period.

Regulation 2 amends the Climate Change Agreements (Administration) Regulations 2012 (S.I. 2012/1976) to provide for a new target period from 1st January 2021 to 31st December 2022. During a target period, a facility must meet targets for energy use or emissions which are specified in a Climate Change Agreement in order to be eligible for a reduced rate of Climate Change Levy. If a facility does not meet any target for a target period, it may pay a buy-out fee on each tonne of carbon dioxide equivalent by which it falls short of meeting that target. If a facility overachieves against a target, there will be a surplus, being the amount by which the reduction in emissions has exceeded the target.

Regulation 2 also amends the terms to be included in an underlying agreement relating to the buy-out fee, and amends the formulas to provide that any surplus will not be taken into account in calculating the buy-out fee for the new target period. Amendments to the financial penalty provisions include a new definition of “base year” and link the calculation of a financial penalty to the relevant target period.

Regulation 2 also inserts a power for the administrator to vary a climate change agreement to take account of any changes in the terms specified by that statutory instrument from time to time as terms which must be included in agreements.

Regulation 3 amends the Climate Change Agreements (Eligible Facilities) Regulations 2012 (S.I. 2012/2999) to extend the scheme until 31st March 2025.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

(a) S.I. 2012/2999, to which there are amendments not relevant to these Regulations.

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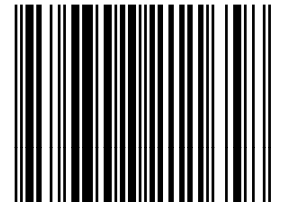
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