

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE LEVY (GENERAL) (AMENDMENT AND
MODIFICATION) REGULATIONS 2021

2021 No. 675

1. Introduction

- 1.1 This explanatory memorandum has been prepared by 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 amends the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) to update references to the Combined Heat and Power Quality Assurance Standard (CHPQA) and to certificates issued under the CHPQA Scheme. References to the CHPQA Standard will be updated to confirm an easement in the certification process which will provide continuity of financial support, preventing a secondary financial hit to organisations in 2021 caused by the COVID pandemic.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

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

6. Legislative Context

- 6.1 The CHPQA Scheme, through the CHPQA Standard, outlines the CHPQA methodology, definitions, thresholds and criteria for Good Quality certification of a CHP plant. The latest version of the CHPQA Standard (Issue 8) was published by the Department for Business, Energy and Industrial Strategy (BEIS) on 10 March 2021 to reflect the temporary easement for CHP plants impacted by COVID-19 lockdowns and can be found at <https://www.gov.uk/government/publications/chpqa-standard>.

- 6.2 This instrument amends and modifies Part IV(A) of the Climate Change Levy (General) Regulations 2001, to update references in those regulations which refer to the CHPQA Standard, and to certificates issued under it.

7. Policy background

What is being done and why?

- 7.1 CHP is an energy efficient technology that allows generation of both heat and power on site, providing fuel and carbon savings compared to separate generation.
- 7.2 The CHPQA Scheme was launched in 2001 as a voluntary programme to assess and certify efficient CHPs. To encourage CHP installations and efficient use of the technology, certification through the CHPQA Scheme enables operators to access multiple benefits including exemptions from the climate change levy (CCL) and carbon price support (CPS) taxes, business rate exemptions and, for renewable fuelled CHPs, the Renewable Heat Incentive and the Renewables Obligation.
- 7.3 The CHPQA Standard outlines the methodology, definitions, and criteria for Good Quality certification. The CHPQA Standard is referenced in the individual pieces of legislation for each scheme that CHPQA certification provides a benefit for.
- 7.4 During the COVID-19 lockdown and restrictions in 2020, some CHP operators were required to alter how they operate their plants, potentially having a detrimental effect on the CHPQA certification of some operators in 2021. BEIS has agreed to provide a temporary easement in the CHPQA Standard to accommodate these operators, should they wish to seek it.
- 7.5 This is being implemented by the issue of a new, amended temporary CHPQA Standard (Issue 8). The legislation to administer various schemes which offer tax exemptions and other benefits to CHPQA certified CHP plants mostly refer to a specific Issue of the CHPQA Standard. Guidance Note 60 issued under Issue 8 provides for a CHPQA certificate issued in the normal way to be supplemented by information that applies the temporary easement to the CHP stations that apply for and are granted it.
- 7.6 Therefore, this instrument is a consequential amendment in order to implement to temporary COVID easement for CHPs affected. It is being made in conjunction with the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendment and Modification) Regulations 2021 made by the Commissioners for HM Revenue and Customs relating to the climate change levy and two other statutory instruments – the Renewable Heat Incentive Scheme (Temporary Modification) Regulations 2021 (S.I. 2021/346) and the Combined Heat and Power Quality Assurance (Temporary Modifications) Regulations 2021 (S.I. 2021/656) - made by BEIS in relation to schemes administered by that department.
- 7.7 The modifications made by regulation 3 of this instrument will allow relevant CHPs to be certified for 2021 according to Issue 8 of the CHPQA Standard which will, in turn, have the effect of preserving their entitlement to exemptions from CCL and appropriate treatment under the CPS rate. The modifications in regulation 3(3) mean that, for CPS purposes and for relevant CHPs, certification for 2021 under Issue 7 can be, in effect, over-ridden by supplementary information under Issue 8. This is needed because of the way the certification and the timing of certification applies to CPS but not to CCL.
- 7.8 The amendments made by regulation 2 of this instrument will update references to the CHPQA Standard to Issue 7, ensuring that CHP installations that are not subject to the

temporary measures under Issue 8 and are certified under Issue 7 will be eligible for the CCL reliefs. The amendment will also ensure that, after the end of the relaxation period, the tax treatment will again be administered on the basis of compliance with Issue 7 for all CHP installations.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union

9. Consolidation

9.1 This instrument is not a consolidation measure. It makes amendment to existing legislation, which is not consolidated at this time.

10. Consultation outcome

10.1 BEIS consulted stakeholders on their proposed COVID easement to allow submission of 2019 operational data instead of their 2020 data for 2021 certification, during December 2020 and January 2021. All stakeholders that responded agreed and welcomed the change, with no major concerns raised. Details of the consultation outcome can be found at <https://www.gov.uk/government/consultations/combined-heat-and-power-quality-assurance-proposed-temporary-easements-in-response-to-the-covid-19-pandemic>.

10.2 This instrument is consequential to that consultation and resulting legislative changes made by BEIS, and no further consultation is required.

11. Guidance

11.1 Issue 8 of the Combined Heat and Power Quality Assurance Scheme Standard was published on 10 March 2021 and can be found on <https://www.gov.uk/government/publications/chpqa-standard>. Further guidance on the CHPQA Scheme can be found on <https://www.gov.uk/guidance/chpqa-guidance-notes>.

12. Impact

12.1 The impact on business, charities or voluntary bodies is that any relevant CHPs which they operate will be able to continue claiming the relevant relief from Fuel Duty, where appropriate. There is no other, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small businesses.

13.3 The basis for the final decision on what action to take to assist small businesses was in the context of the fact that this instrument aims to assist relevant businesses and additional administrative burdens will be negligible.

14. Monitoring & review

- 14.1 No review provision is required for this instrument as a review would be disproportionate taking into account the negligible additional economic impact of these regulations and because the amendment is only a temporary fix for 2021 CHPQA certification.

15. Contact

- 15.1 Farah Ullah at HM Revenue and Customs, Telephone: 03000 595857, email: farah.ullah@hmrc.gov.uk, can be contacted with any queries regarding the instrument.
- 15.2 Annie Purkis, Deputy Director for Indirect Tax, at HM Revenue and Customs can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Kemi Badenoch MP, Exchequer Secretary to the Treasury can confirm that this Explanatory Memorandum meets the required standard.