



Department for  
Business & Trade

# Energy Intensive Industries (EIs)

Guidance for applicants seeking a certificate for an exemption from the indirect costs of funding Contracts for Difference (CfD), the Renewables Obligation (RO), the small-scale Feed In Tariff (FiT) and the GB Capacity Market (CM)

2<sup>nd</sup> April 2024

# Contents

<b>Introduction</b>	<b>4</b>
<b>Eligibility</b>	<b>5</b>
The “Sector Level Test”	5
The “Business Level Test”	6
Force Majeure	8
<b>Calculating the level of the exemption</b>	<b>9</b>
Businesses that make several products	9
Businesses that have restructured	9
Meter and network sharing	10
Third Party arrangements	10
<b>Applying for the exemption</b>	<b>10</b>
Information required	10
Issuing certificates	11
Appeals	12
Supporting evidence needed from applicants	12
<b>Monitoring and verification</b>	<b>14</b>
Quarterly reports	14
Re-application	14
Monitoring	14
Information sharing, publication, subsidy control and transparency	14
Change of details or circumstances	16
Recovery of money from over-exempted energy intensive industries	17
<b>Appendix: Example Calculations</b>	<b>1</b>
The 20% Business Level Eligibility Calculation	1
<b>Annex 1: Eligible activities</b>	<b>5</b>
<b>Annex 2: Information required from applicants: checklist</b>	<b>8</b>

## 1) Introduction

1. The UK government is committed to achieving net zero greenhouse gas emissions by 2050. This requires a transformation of the UK economy, including the energy market, while keeping energy costs down for business and consumers, and maintaining competitiveness.
2. Several policies have been developed to increase the share of electricity generated from renewable and low carbon sources. Specifically, the government has put in place the Contracts for Difference (CFD) and Renewables Obligation (RO) schemes and the Small-Scale Feed-In-Tariff (FIT), amongst others, to incentivise low carbon and renewable electricity deployment. In addition, Government has placed additional policy costs on bill payers to cover the costs of operating the GB Capacity Market (CM). The costs of funding these schemes are recovered through levies or an obligation on suppliers and these are ultimately passed on to domestic and non-domestic electricity consumers' bills.
3. The government recognises that, in the short to medium term, the resulting increase in retail electricity prices may risk putting certain electricity-intensive businesses at a significant competitive disadvantage when they are operating in international markets. To address this risk, the government has developed the EII support schemes which have been reviewed by the UK Competition and Markets Authority and have been assessed by the Government as being compatible with the new UK Subsidy Control regime.
4. The schemes have been implemented by secondary legislation<sup>1</sup>, the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (as amended), the Electricity Capacity (Supplier Payment etc.) (Amended and Excluded Electricity) Regulations 2024, and the Energy-Intensive Industry Electricity Support Payments and Levy Regulations 2024).
5. The purpose of this guidance document is to explain how eligible businesses can apply for the CFD, RO, FIT and CM exemption schemes. Applicants eligible for these schemes will automatically be eligible for the Network Charging Compensation scheme from April 2025. The eligibility criteria and process of assessment are the same for all these schemes.
6. Companies based solely in Northern Ireland can currently apply for RO compensation and should refer to the Compensation Scheme Guidance. Companies with sites in both Great Britain and Northern Ireland should use this guidance.
7. The schemes will be operated in compliance with the UK Subsidy Control Act and the Windsor Framework.

---

<sup>1</sup> [www.legislation.gov.uk/ukxi/2015/721/contents/made](http://www.legislation.gov.uk/ukxi/2015/721/contents/made)  
[www.legislation.gov.uk/ukxi/2017/1051/contents/made](http://www.legislation.gov.uk/ukxi/2017/1051/contents/made)  
[www.legislation.gov.uk/ukxi/2017/1289/contents/made](http://www.legislation.gov.uk/ukxi/2017/1289/contents/made)  
<http://www.legislation.gov.uk/id/ukxi/2020/130>  
[www.gov.uk/government/publications/renewables-obligation-level-calculations-201819](http://www.gov.uk/government/publications/renewables-obligation-level-calculations-201819)

## 2) Eligibility

8. The key requirements in determining whether a business is eligible for an EII certificate for an exemption from a proportion of the indirect costs of funding the CFD, RO, FIT and CM<sup>2</sup> are:
  - The business must manufacture a product in the UK within an eligible sector (defined by a 4-digit NACE Code) – the “sector level test”.
  - The business must pass a 20% electricity intensity test – the “business level test”.
  - The business must have at least one quarter of financial data.
  - The application must contain evidence of the proportion of electricity used to manufacture the product for a period of at least three months.
9. In this guidance, “business” (or the “applicant”) refers to the legal entity manufacturing a product in the UK within an eligible NACE Code, such as a Company registered at Companies House.
10. If an agent is applying for an exemption on behalf of a client, they must submit a Letter of Authority (LoA) with the completed application which confirms they are acting on behalf of the applicant for this purpose. This should be signed by a Director or a senior manager within the business.
11. A business that successfully applies for the exemption will be issued with a certificate (an “EII certificate”) confirming their eligibility for the CFD, RO, FIT and CM exemption. This will also entitle them to the Network Charging Compensation Scheme when it starts.
12. Successful applicants should then pass their certificate on to their electricity supplier so that they receive the benefit of the exemptions. Please note that electricity suppliers will need to set up the relevant arrangements before they receive, and therefore pass on, the exemptions.

### The “Sector Level Test”

13. The European Commission’s “Guidelines on State aid for environmental protection and energy 2014-2020<sup>3</sup>” (referred to in this guidance as the EEAG) is the current basis for sector eligibility. This sets out, at an EU wide level, which sectors (by 4-digit NACE code) could be eligible for relief from environment protection and energy levies.
14. To ensure that support is targeted at those most at risk, the UK Government further limited eligibility to those sectors which are electricity intensive and subject to international competitive pressures using UK specific data from the Annual Business Survey, specifically, those found to have a trade intensity of at least 4% and an electricity-intensity of at least 7%. Eligible sectors are those carrying out the activities listed in Annex 1, referred

---

<sup>2</sup> As set out in the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015, as amended.

to as “specified activities” in the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (referred to in the following paragraphs of this guidance document as “the Regulations”). The Government intends to undertake a data refresh by 2026 and will consult on this in due course.

15. Applicants will need to establish that they manufacture a product(s) in the UK that falls within one or more of the eligible 4-digit NACE codes in Annex 1. If a business does not manufacture a product in one of these sectors it will not be eligible for an EII certificate. Businesses that produce both eligible and ineligible products can apply but the exemption can only be applied to the proportion of electricity used to produce the eligible product.

#### The “Business Level Test”

16. The purpose of the business level test is to ensure that the exemptions target only those businesses where support is most needed, i.e. those that will be put at a significant competitive disadvantage from the costs of funding renewable and low carbon policies.
17. To satisfy the business level test, businesses will need to show that their electricity costs amount to 20% or more of their Gross Value Added (GVA) over a reference period – the “relevant period”.
18. GVA is defined as earnings before taxes, interest, depreciation and amortisation (EBITDA) excluding items which are extraordinary and all staff costs including employers pension and national insurance contributions, director’s salaries and bonuses, casual or agency staff costs and other arrangements where employees are paid indirectly.
19. In line with the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102), which provides general accounting procedures on extraordinary expenditure, we define an extraordinary item as something which is highly unusual or infrequent in nature and not related to the ordinary and typical operating activities of the business.
20. If a business has a subsidiary business, they can apply at any level provided the applicant is a legal entity such as a Company registered at Companies House.
21. Eligibility will be assessed using data based on the applicant’s financial year. If applicable, the accounts on which data has been based must have been submitted to Companies House to allow verification. A business cannot apply with fewer periods of data than exist i.e. it is not permissible to exclude a year to ensure eligibility. The exception to this is that businesses can exclude their 2020 and/or 2021 financial years to account for the negative impact of the COVID pandemic. The relevant period for businesses is as follows:
  - For businesses with three or more years of published annual accounts, the relevant period will be the three most recent consecutive years for which there are annual accounts, noting that businesses can choose to exclude 2020 and/or 2021 data as noted above.
  - For businesses with two years of published annual accounts, the relevant period will be those two years.

- For businesses with one year of published annual accounts, the relevant period will be that one year.
  - A business that does not have any annual accounts and has been trading for 21 months or less can also apply. The relevant period in this circumstance will be the period for which they have been carrying out a specified activity and have financial data in the 12 months prior to making an application (which must be at least three months). Such businesses will need to supply a copy of their first set of annual accounts to DBT within 30 days of the accounts being finalised.
  - Businesses with fewer than one financial quarter of financial data are ineligible.
  - For businesses with unusual accounting periods (i.e. which are longer or shorter than a 12-month period), we will use the period used in the published accounts.
22. Businesses will need to re-apply each time their EII certificate expires (which will generally be annually – see paragraphs 45-46 for more information about when certificates expire). However, the eligibility of businesses with three or more years of annual accounts will only be reviewed when an application is made for their 6th EII certificate (i.e. they can receive four more certificates after their initial application before their eligibility will be reassessed). Eligibility of businesses with less than three years of annual accounts will need to be reassessed before a new certificate can be issued.
23. A legal entity which has a non-UK site can apply and may be eligible for the exemption. In these circumstances we will assess GVA at the legal entity level (i.e. including UK and non-UK assets or operations) but use UK only electricity data in the assessment. We cannot exempt electricity associated with non-UK production and therefore any certificate will only be valid for sites in the Great Britain (i.e. excluding Northern Ireland) that produce an eligible product.
24. For businesses with sites in Northern Ireland, the business data for the Northern Ireland site(s) is included for the purposes of the business level test. However, businesses will not receive an exemption in respect of any meters in Northern Ireland.
25. Business electricity consumption includes all electricity consumed by the business during the relevant period (as outlined above) including grid and non-grid consumption.

## Force Majeure

26. Recognising that issues beyond the control of a business can affect its eligibility (if they affect its electricity consumption or its GVA), a business may obtain an EII certificate if the Secretary of State is satisfied its electricity consumption has been reduced by extraordinary circumstances, such as flood or fire, which were beyond its control, not foreseeable and could not have been avoided by the exercise of all due care (force majeure). Applicants will need to provide evidence of the alleged force majeure and show the effect of it on electricity consumption.

### Electricity Cost Impact calculation

To calculate the electricity cost impact (which must be higher than or equal to 20%) we use the following formula:

$$\frac{BEP \times BEC}{BGVA}$$

BEP (Baseline Electricity Price):

- In calculating eligibility at both sector and business level the UK Government uses a Baseline Electricity Price (BEP) to allow fair comparison across sectors and businesses.
- The BEP is the price that, in the opinion of the Secretary of State, reflects the electricity price paid by businesses which carry out specified activities, in the most recent calendar year for which information is available<sup>4</sup>, expressed in pounds per megawatt hour and adjusted for inflation in accordance with a measure of inflation determined by the Secretary of State so as to reflect prices in the calendar year beginning with 1st January 2012. It is based on the 2022 electricity price for the average industrial user in the [Quarterly Energy Prices publication](#)<sup>5</sup> This is currently the price from 2022 and, once deflated to 2012 prices using the most recent GDP deflator published by HMT using figures from the Office for Budgetary Responsibility and the Office for National Statistics<sup>6</sup>, is £166.84/MWh.
- We will update this guidance when this changes.

BEC (Baseline Electricity Consumption for Business) = The amount of electricity consumed in the UK for the business over the relevant period as outlined above.

BGVA (Baseline GVA for Business) = The GVA for the business over the relevant period as outlined above and deflated to 2012 figures. Any periods with negative GVA or GVA below £1 will be treated as having an aggregate value of £1.

<sup>4</sup> This will be the most recent calendar year for which all the information (both business information and electricity price information) needed to determine eligibility is available in order that the calculation of electricity cost impact uses data for BEP, BEC and BGVA that is comparable, as far as possible.

<sup>5</sup> See table 3.4.2 (inc CCL)

<sup>6</sup> <https://www.gov.uk/government/statistics/gdp-deflators-at-market-prices-and-money-gdp-november-2020-spending-review>

### 3) Calculating the level of the exemption

27. The level of the exemption will be calculated as follows:

$$100\% \times \frac{\text{The electricity used by the applicant in producing eligible product(s)}}{\text{The total electricity through the meter}}$$

28. The aid intensity will be the total indirect costs of funding the CFD, RO, FIT and CM exemption schemes.

#### Businesses that make several products

29. The exemption will be due for the electricity associated with the manufacture of eligible products. In order to assess this, we will take the following approach.

30. Where a business is manufacturing both eligible and ineligible products using electricity from a meter, the business will need to isolate the electricity usage associated with the different products using one of the following methods:

- Use evidence which clearly demonstrates the electricity usage associated with the manufacture of the product in question – preferably, in the form of metered records; or
- Estimate the electricity usage associated with the manufacture of an eligible product using the proportion of the different products being made (in tonnage, m<sup>2</sup> or another justified metric). For example, electricity consumption is allocated to a product in the same proportion as the tonnage of the product produced relative to overall tonnage.
- Where electricity begins or ceases to be used to make an ineligible product, the exemption certificate will be updated with the new proportion upon receipt of the relevant, verified, data.

#### Businesses that have restructured

31. When a business is subject to restructuring (for example, merger, acquisition or divestment), any meter that is considered eligible for exemption prior to the restructuring will retain eligibility after it, and until the certificate expires, as long as the electricity supplied via that meter continues to be used for the same previously identified specified activity. This will ensure continued exemption. Where a restructuring has resulted in a different legal entity seeking to receive the exemption from such a meter, DBT will need to be notified so that we can issue a notice to amend the name of the EII eligible for the exemption. This will ensure the new applicant benefits from the exemption.

32. As explained above, if any business applies for the exemption with the required data in respect of the applicant's three relevant financial years for which there are annual accounts, and meets the eligibility test, it will be able to apply four more times for an EII certificate before its eligibility needs to be reassessed. If a business in these circumstances acquires another EII certificate following a restructuring (for example, through buying another business which had an EII certificate), this rule will apply to that EII certificate.

33. Under any new structure, any business wishing to include other existing meters that do not currently benefit from an exemption will need to submit data and supporting evidence to allow DBT to assess eligibility of the meter.
34. If a business in the scheme installs a new meter, they can apply for a certificate when they have three months of electricity consumption data.

#### Meter and network sharing

35. Electricity that is not consumed by the applicant, i.e. consumed by other businesses, will not be eligible. A business can only receive a certificate for exemption in respect of the proportion of electricity it uses that goes through the meter.
36. If another business uses the same meter as the applicant, the applicant will need to provide a statement identifying that business. The applicant will also need to provide evidence of the proportion of electricity going through the meter that it uses for the specified activity (for example, electricity bills). If the other business also produces an eligible product, they will need to apply separately in their own right for an EII certificate. If an applicant does not own the meter, they will need to contact the meter owner to supply evidence (such as electricity bills) of the proportion of electricity the applicant uses.
37. Sometimes an electricity network will be shared by several businesses. In such cases each individual business will have to apply separately in their own right for an EII certificate. In these cases, the proportion on the certificate could be significantly lower than the 100% aid intensity as it reflects that business's share of the electricity consumption.
38. For example, Company A is eligible for an EII certificate and uses 25% of the meter's electricity; Company B is eligible for an EII certificate and uses 50% of the meter's electricity; and Company C does not produce any eligible products and uses 25% of the meter's electricity. In this example Companies A and B will need to separately apply for the exemption and will each be issued with a certificate indicating the percentage of that meter's electricity on which they are eligible to claim the exemption. Company C will be ineligible for relief.
39. When there is a change in meter sharing arrangements, we will update the exemption certificate upon receipt of the relevant, verified, information.

#### Third Party arrangements

40. In some cases, a business may receive their grid electricity from a third party who is not a licensed electricity supplier. In these circumstances the business applying will need to tell DBT who that third party is. This is so that an EII certificate can be issued to the business and a notice to the third party. The third party will be responsible for supplying this certificate to the electricity supplier.

## 4) Applying for the exemption

#### Information required

41. Annex 2 sets out the information required from applicants when completing the application form.
42. All applicants will need to confirm via the initial application form that they will take appropriate action to avoid passing on the benefit of this subsidy to Northern Ireland in the

event that its receipt is considered likely to have a material effect on trade in goods between Northern Ireland and the EU.

#### Issuing certificates

43. Successful exemption applicants will receive a certificate setting out the details of their exemption. This should then be shared with the applicant's electricity supplier so that the business can receive the exemption it is entitled to. If requested by the EII we can issue separate certificates for individual sites or meters.
44. Some meters are not eligible for the exemption. This includes domestic meters (some businesses may use these in their offices), export meters (used to export non-grid power such as CHP (Combined Heat and Power) to the grid) and non-half hourly meters. If you are in doubt, please contact [energyintensiveindustries@businessandtrade.gov.uk](mailto:energyintensiveindustries@businessandtrade.gov.uk).
45. A new certificate (where one has not been issued previously) will come into force the day after the day on which it is issued and will last until 30<sup>th</sup> June of the following year. A new certificate issued to existing beneficiaries will be valid from 1<sup>st</sup> July to 30<sup>th</sup> June of the following year (e.g. a certificate starting from 1<sup>st</sup> July 2023 will be valid until 30<sup>th</sup> June 2024).
46. The above rule does not apply in respect of "new businesses" (as defined in the Regulations). Instead, for "new businesses" that have been trading for four consecutive financial quarters or less when they apply, the certificate will last until 16 months after the first day of the relevant period that was used for the application. For example, if a new business applied with 6 months of data and was eligible, and the certificate was issued a month after the date of the application (in month 7), the certificate would last for 9 months.
47. To ensure continuous exemption, businesses will need to apply for a new certificate before their existing certificate expires by completing an application form. Provided the business applies in time, a replacement certificate will be issued, and it will come into force on the day after the previous certificate expires.
48. The certificate will set out the proportion of electricity that is exempt from the indirect costs of funding the CFD, RO, FIT and CM exemption schemes for each individual meter. This will be based on the proportion of electricity supplied to the meter used for a specified activity in the period for which evidence is required to be provided, which in most cases will be the previous calendar year or, if supply to the meter began after the start of that year, the period up to 12 months beginning on the date on which the supply began for which evidence is provided. This is provided there are three months' evidence. This will be rounded to the nearest hundredth with 0.005 being rounded upwards.
49. In some instances, there may be a "continuing change" since the beginning of the previous calendar year. There is a "continuing change" where the business begins or ceases to share a meter with a third party or the business begin or ceases to use electricity measured by the meter to make an ineligible product, provided that the change lasts for at least three months and is still continuing. If this is the case, then the proportion of exemption on the certificate will be based on the period since the last "continuing change" commenced, as long as there is at least three months' worth of data. The proportion will

be updated as new information becomes available. On receipt of additional information, an updated certificate will be issued.

50. Note that the exemption cannot be applied until suppliers have put in place the relevant arrangements for the meter, in line with the guidance issued by the Low Carbon Contracts Company (LCCC)<sup>7</sup>. To ensure the exemption schemes function effectively it is in the interest of both EIs and suppliers to make this happen as soon as possible. If an EI changes suppliers, the new supplier will need to re-notify LCCC and set the arrangements up again.
51. Once a certificate has been issued, we will notify the LCCC via the EMR Settlement Limited (EMRS) who manage the Contracts for Difference programme. EMRS will cross-check the MPAN (Meter Point Administration Number) or BM Unit (Balancing Mechanism Unit) number of the certificate with the information the electricity supplier has provided to ensure that the exemption can be applied.
52. The eligible relevant proportion of electricity volume that is exempt as determined by EMRS, acting on behalf of LCCC, will be shared with OFGEM for validation of the figures submitted by suppliers for its RO and FIT compliance process. This will allow businesses to benefit from the RO and FIT exemptions. To benefit from the RO and FIT exemptions, the electricity supplier should follow the guidance set out by OFGEM<sup>8</sup> to ensure that the relevant arrangements are in place.
53. Suppliers and EMRS, acting on behalf of LCCC, will continue to use the established process to register EIs to the CM scheme. This process provides the information EMRS need to update the Aggregation Rules for the Supplier to exempt a proportion of metered volumes when calculating the charges across the different schemes. Upon receipt of the information from Suppliers via the processes detailed in WP25 – Aggregation Rules<sup>9</sup>, EMRS will automatically apply the exemption across CfD and CM schemes.

## Appeals

54. Businesses can appeal against decisions made regarding their eligibility, the proportion of the exemption, an over-exemption or the amount to pay to DBT due to an over-exemption if they consider that a decision is incorrect.
55. Appeals should be made in writing and can be sent via email to [energyintensiveindustries@businessandtrade.gov.uk](mailto:energyintensiveindustries@businessandtrade.gov.uk). They should clearly state that an appeal is being made, set out the grounds for appeal and be accompanied by any supporting evidence/documents that are to be relied on. Appeals will be determined on paper not via any oral hearing.
56. Appeals must be made within 20 working days of the date of the original decision. Following receipt of an appeal DBT will send an acknowledgement of receipt within two weeks and will seek to make a decision within eight weeks of receipt of appeal. If an appeal is not upheld, an appellant can follow the Department's appeals process.

---

<sup>7</sup> [https://lowcarboncontracts.uk/sites/default/files/publications/LCCC%20Guidance%20on%20EI%20Excluded%20Electricity%20-%20Relevant%20Arrangements\\_0.pdf](https://lowcarboncontracts.uk/sites/default/files/publications/LCCC%20Guidance%20on%20EI%20Excluded%20Electricity%20-%20Relevant%20Arrangements_0.pdf)

<sup>8</sup> [www.ofgem.gov.uk/publications-and-updates/renewables-obligation-guidance-suppliers-march-2018](http://www.ofgem.gov.uk/publications-and-updates/renewables-obligation-guidance-suppliers-march-2018)

<sup>9</sup> <https://www.emrsettlement.co.uk/document/working-practice/wp25-emr-aggregation-rules/#:~:text=The%20Aggregation%20Rules%20are%20used,Aggregation%20Rules%20for%20each%20CfD>

## Supporting evidence needed from applicants

57. Regulation 10 of the Regulations lists what supporting evidence an application must contain. In particular, regulation 10(2)(a) states that evidence of the earnings and the staff costs of the person's business must be provided. This section sets out what supporting evidence will be considered sufficient for the purposes of regulations 10(2)(a) and (b).
58. We will need to validate the data in the application. For all businesses we will need May and November electricity bills for the relevant period. For example, if a business is applying with data from 2018, 2019 and 2020, we will need bills for May 2018, 2019 and 2020 and November 2018, 2019 and 2020. We may require additional bills.
59. Businesses must, where applicable, provide finance data to match that published on Companies House. Businesses that do not have published staff costs and/or EBITDA at Companies House, or in a published UK annual report, must provide us with a copy of internal documents (in most cases, a copy of management accounts) used to support the figures for EBITDA and staff costs reported in Part 2 of the application, and provide an explanation for any difference between the figures in the application and those relevant in the internal documents. If deemed necessary by DBT, an accountant's report may also be required. If this is the case, DBT will provide further guidance on the scope of that report.
60. For new businesses which will not have annual accounts, we will require any management accounts which are available. Such businesses should provide an explanation for any differences between the figures in the application and those in the relevant internal documents.

## 5) Monitoring and verification

### Quarterly reports

61. Businesses receiving the exemptions must notify DBT on a quarterly basis (i.e. in each of the three-month periods ending 31<sup>st</sup> March, 30<sup>th</sup> June, 30<sup>th</sup> September and 31<sup>st</sup> December), that they are still trading and carrying out the specified activity in relation to which the application for the certificate was made. Businesses must also report any other specified activity for which electricity being measured by the meter is used. These quarterly declarations can be submitted on any day in a quarter rather than by the last working day of the month concerned.
62. For certificates where the proportion of exempt electricity set out in the EII certificate is based on a period of less than twelve months or where, at the date of the quarterly report, there is a continuing change in meter use (as set out in paragraph 49 above) the quarterly report will need to include the most recent evidence, when available, of the proportion of the electricity measured by the meter and used for a specified activity. This will enable us to update the proportion of electricity set out in the existing certificate and issue a new one.
63. Where the continuing change is that the business has begun to share a meter with a third party, the identity of the third party should be reported in the quarterly report and evidence, such as bills or a contract, should be provided. Businesses should also report any changes in the name of a third party.

### Re-application

64. As explained above, an EII certificate will normally only be valid for up to one year. To ensure continuous exemption, businesses will need to apply for a new certificate before their existing certificate expires. The information required in support of applications is set out in Annex 2.

### Monitoring

65. DBT will monitor applications and will undertake further validation or investigation. This may include but is not limited to:
  - Where a case is complex – for example, a restructured business or an installation manufacturing several products.
  - Where the information being provided is significantly different from that declared with Companies House.
  - A random check of a sample of applications by a DBT official. In some cases, an independent verifier may also be used.
  - Where DBT considers that there may be a risk of engaging Article 10 of the Windsor Framework.

## Information sharing, publication, subsidy control and transparency

66. We recognise that businesses will be required to provide commercially sensitive data and, unless we consider that we are legally required to do so (for example, by the Freedom of Information Act 2000, the Environmental Information Regulations 2004) we are not intending to make public, commercially sensitive business data.
67. We may share data with the LCCC, the BSCCo, EMRS and OFGEM for the administration of the exemption schemes. This data will not be published.
68. The EII support schemes are subject to domestic and international subsidy control requirements but are outside scope of Article 10(1) of the Windsor Framework (which applies EU State aid rules to measures affecting trade in goods or electricity between Northern Ireland and the EU).
69. The Statutory Guidance on the scope and application of Article 10 of the Windsor Framework (see [here](#)) sets out how to assess whether there is foreseeable material effect on NI-EU trade. Where there is a risk of Article 10 of the Windsor Framework applying, eligible EIIs should take steps, as outlined in the Guidance, to avoid the benefit being passed on to the EII's activities in Northern Ireland or through the relevant goods placed on the market in Northern Ireland.
70. Under the regulations, the Secretary of State may decide not to issue an EII certificate in respect of an EII application where in the opinion of the Secretary of State the issuing of the EII certificate would be incompatible with international law obligations in respect of subsidy control. This would include incompatibility with obligations under Article 10 of the Windsor Framework so it is important that businesses take appropriate steps where necessary to avoid the Windsor Framework being engaged. The Secretary of State may also decide to revoke an EII certificate where satisfied that there is a risk of incompatibility with international subsidy control obligations.
71. The Subsidy Control Act requires granting authorities, in this case DBT, to publish certain information in respect of businesses receiving the subsidies (if worth £100,000 or more) for transparency purposes: specifically, their name, the total amount of subsidy received (within bounded ranges), the date the subsidy was awarded, the relevant region of operation (NUTS 2), sector of the economy (e.g. manufacturing) and the type of business (i.e. small, or large company).
72. DBT does not hold all the information it requires to calculate the value of the subsidy received by eligible EIIs in respect of the exemptions. The LCCC holds the relevant information in the form of the electricity consumption data of eligible EIIs. The UK government will therefore require LCCC to share the following data with DBT – the EII certificate number; the name of the recipient; the volume of electricity supplied through the eligible meters (in MWh) and the value of the CFD exemption (in £).
73. In order to calculate the individual aid amounts, LCCC or DBT will need to multiply this volume data (MWh) by the CFD supplier levy (£/MWh). EMRS publishes the interim levy rate on behalf of the LCCC on a quarterly basis in advance and a reconciled levy rate on a daily basis once the generators have been paid.

74. The metered volume data is the same data that will be used to calculate the value of the RO and FIT exemption to each beneficiary. DBT may use this data in its internal administration of the CFD, RO and FIT EII exemption schemes and may use the total volume of electricity supplied through eligible meters for the purpose of setting the annual Renewables Obligation on licensed suppliers.
75. To facilitate the EII exemption being applied to CM, the regulations will allow changes to the CM Supplier Demand Forecasts process. Suppliers will need to work with their EII customers to forecast their demand for the periods of high demand (4pm-7pm on any working day in November, December, January or February) which will be required to minus from the Suppliers gross demand.
76. The first six months of the exemption uses the forecast data, before the actual data for the period of high demand is received, which will use the gross demand minus any EII exemptions for the revised schedule for the remaining six months of the CM Delivery Year. Once further settlement data is received for the period of high demand the metered volumes will be adjusted within the monthly and annual reconciliations. Guidance and Working Practice documents are available on the EMRS website which reflect the EII exemption<sup>10</sup>.
77. By applying for an EII certificate, an applicant consents to the data sharing requirements set out in this guidance. By giving consent to DBT, an applicant is also confirming that this consent can be relied upon by LCCC.
78. Otherwise, unless DBT considers that it is legally required to make further information available, DBT will only publish the names of businesses receiving the exemption and will not publish details of unsuccessful applicants.
79. For the purposes of Data Protection, the Data Controller is the Department for Business and Trade (DBT). You can contact the DBT DPO (Data Protection Officer) at: Department for Business and Trade Data Protection Officer, DBT, Old Admiralty Building, London SW1A 2AY.

#### Change of details or circumstances

80. The applicant (or its successor) must notify DBT as soon as possible if:

- The contact's name or address changes.
- It ceases to manufacture all types of eligible product. Note: this does not extend to temporary shutdown of a plant for maintenance.
- It becomes aware of an error in an application it has made which means that either it is actually not eligible for the exemption or that a higher proportion of electricity supplied to the meter is subject to the exemption than it should be.

81. If a business restructures, DBT will issue a notice updating the name on the certificate. We will also issue a notice correcting the certificate if a business is receiving too much or too little exemption.

---

<sup>10</sup> <https://www.emrsettlement.co.uk/publications/guidance/>

82. If a business notifies DBT that its site (or one of its sites) has been mothballed, we will consider the individual circumstances, but it is very likely that the certificate would be revoked in respect of the meter(s) on that site. If a certificate for a mothballed site is revoked, a business can apply for a new certificate if the site becomes operational again. The proportion specified in the new certificate will be based on whatever data is available for the previous calendar year; if supply to the meter began after the start of that year, the period of up to 12 months beginning on the date on which supply began for which such evidence is provided; as specified in the Regulations, as long as at least three months of data is available.

83. Certificates will remain valid during any period of scheduled maintenance.

84. DBT will revoke a certificate if a business:

- ceases to carry out a specified activity or if it discovers an error meaning it was never eligible.
- fails to comply with its notification obligations, set out in regulation 12 of the Regulations.

85. DBT would also recover the value of any exemption that the business had received but was not entitled to.

86. If a business is supplied by a third party that is not an electricity supplier but has a certificate because it supplies that business, we can revoke that certificate if the business ceases to be supplied by that third party. We can also revoke the certificate issued to the third party if the business's own certificate is revoked.

#### Recovery of money from over-exempted energy intensive industries

87. We are legally required to recover any over-exemption of the reduction in charges from schemes to finance renewable energy deployment will be recovered.

88. Any CFD or Capacity Market over-exemption is automatically recovered via electricity suppliers. RO and FIT over-exemption will need to be recovered by DBT. To calculate the value of any over-exemption, DBT will ask for the electricity bill of an over-exempted business which may show the pass-through costs of the CFD, RO and FIT exemption schemes as a line item. If the bill shows the price impact and volume figures, DBT will use this information and the level of reduction in charges that the business ought to have received to calculate the amount the business has to pay to DBT.

89. If the electricity bill does not show the price impact, DBT will calculate the amount to be recovered by taking the difference between the volume of electricity actually exempted and volume of electricity consumed that should have been eligible to be excluded from the renewables charges, multiplied by the respective renewable charge, bearing in mind the maximum aid intensity of 100% and the relevant period. DBT will use the following levels of the charges (£/MWh):

- RO: 'Effective' price of the RO (= GB renewable obligation in proportion to total electricity supplied (ROC/MWh) multiplied by the buy-out price (£/ROC)), within the relevant period;

- FIT: 'Effective' price of the FIT (= total quarterly Levelisation fund (£) / total electricity supplied in GB (MWh) within the relevant period).
90. DBT will write to any over-exempted business informing it and requesting further information to calculate the amount of the over-exemption. After DBT has calculated the level of the over-exemption based on the information above, it will write again to the business with its decision about the value of the over-exemption that the business must pay DBT.
91. Businesses can appeal against decisions made regarding the over-exemption and the amount they must pay to DBT if they consider that a decision is incorrect (see the appeals section above).

## 6) Appendix: Example Calculations

### The 20% Business Level Eligibility Calculation

1. The 20% business level eligibility test is the same for the exemption from the costs of the CFD, RO and FIT. The electricity intensity calculation includes electricity from all sources (grid and non-grid) across the entire business (including ineligible products). To allow fair comparison across applicants facing different electricity prices, a common reference price is used. To allow comparison across time, all monetary values are first deflated by DBT to a common year using the most up to date version of the UK GDP Deflator published by the ONS.
2. Total electricity consumption provided in Table A of part 2 of the application form, is added together for each complete financial period provided. It is then multiplied by the reference price to give the total representative cost of electricity over the years/quarters provided. The reference price is fixed in 2012 prices. The reference price is currently £166.84/MWh.
3. Earnings Before Interest, Tax, Depreciation & Amortisation (EBITDA) and staff costs are added together to create GVA<sup>11</sup>. GVA for each time period is multiplied by the relevant GDP Deflator to convert it to 2012 prices. GVA is then added together over the financial periods provided to get total GVA in 2012 prices. If GVA is less than £1 in any period, a value of £1 is used.
4. The total representative electricity cost is divided by total GVA to create electricity intensity. A business is eligible if electricity intensity meets or exceeds 20%. A worked example of the calculation performed by DBT is outlined below for a business which has submitted an illustrative "Table A". Note that calculations are rounded, and tables slightly abridged for ease of presentation.

---

<sup>11</sup> In accordance with Annex 4 of EEAG guidelines, income and expenditure classified as financial or extraordinary in company accounts should not be included in EBITDA. Staff costs should include employer's pension and national insurance contributions; businesses with complex arrangements including third party payment of staff should discuss these arrangements with DBT.

**Table A**

	2012/13	2013/14	2014/15	2015/16
Business Financial period Start Date	-	01/07/2013	01/07/2014	01/07/2015
Business Financial period End Date	-	30/06/2014	30/06/2015	30/06/2016
Does this business financial year represent a full year of operation?	No	Yes	Yes	Yes
EBITDA (£ nominal)	-	-£20,000,000	-£5,000,000	£15,000,000
Total staff costs (£ nominal)	-	£17,500,00	£20,000,000	£30,000,000
Total Business Electricity Consumption incl Grid and Non-Grid Sources (MWh)	-	80,000	90,000	85,000
Total business Grid Electricity Consumption (MWh)	-	23,105	31,900	27,810
Total business Grid Electricity Bill	-	£1,594,245	£2,488,200	£2,336,040

**Step 1:** Calculate total representative electricity consumption = £111.75 x (80,000 + 90,000 + 85,000) = £29,555,000.

**Step 2:** Add staff costs and EBITDA together to create GVA

Financial Year	2013/14	2014/15	2015/16
GVA	£17.5m - £20m = -£2.5m However, because GVA is below £1 this becomes £1	£20m-£5m=£15m	£30m + £15m = £45m

**Step 3:** Convert GVA to 2012 prices for each year and then sum to create total GVA in 2012 prices.

#### GDP Deflator provided by HMT (July 2022, indexed to 2012 prices)

Calendar Year	2012	2013	2014	2015	2016
Index	1	0.978	0.966	0.965	0.939

Because the business has a financial year which does not follow the calendar year, the index has to be converted so it matches the financial year provided by the business. This is done by using the proportion of the financial year that is in each calendar year.

**Table B**

	2013/14	2014/15	2015/16
Business Financial period Start Date	01/07/2013	01/07/2014	01/07/2015
Business Financial period End Date	30/06/2014	30/06/2015	30/06/2016
Proportion of financial year in first calendar year	184 days / 365 days = 0.5	184 days / 365 days = 0.5	184 days / 366 days = 0.5
Index for financial year	$(0.5 \times 0.978) + (0.5 \times 0.966) = 0.972$	$(0.5 \times 0.966) + (0.5 \times 0.965) = 0.966$	$(0.5 \times 0.965) + (0.5 \times 0.939) = 0.949$
GVA in 2012 prices	$0.972 \times \text{£}1 = \text{£}0.97$	$0.966 \times \text{£}15\text{m} = \text{£}14.5\text{m}$	$0.952 \times \text{£}45\text{m} = \text{£}42.8\text{m}$

Total GVA in 2012 prices = £0.97 + £14.5m + £42.8m = £58.27m

**Step 4:** Calculate electricity intensity = £29.5m / £58.27m = 51%. This exceeds 20% so the business is eligible.

#### Proportion of Electricity Eligible per Meter

- Eligible businesses will be issued a certificate indicating their eligibility for an exemption. The certificate will detail the proportion of electricity consumed from each meter, eligible for exemption. These proportions will be calculated using data from a business' application and updated each year based on annual data provided in re-applications.
- Those eligible businesses that share a meter with other businesses or are supplied by a third party who also supplies others or onward supply to other businesses will only receive support for the proportion of electricity they consume. Those businesses that consume electricity from the same meter to produce eligible and ineligible products will only receive support on the proportion of electricity consumed in relation to the production of eligible products.

#### Worked Example

- In this example a business has two meters at two sites – meter A and meter B – the first meter it shares with another business and the site produces both eligible and ineligible products. At the second site it also produces eligible and ineligible products.

Meter	Postcode	Name of other user of meter if applicable	Total Grid Elec Consumed by Business	Total Grid Elec from Meter NOT Consumed by Business
Meter A	SW1 234	Other Company Ltd	80,000	2,000
Meter B	NE1 234	-	10,000	0

Meter	Postcode	Sector (4-digit NACE Code)	Calendar Year 2016
Meter A	SW1 234	2013	70,000
Meter B	SW1 234	2023	10,000
Meter C	NE1 234	2013	5,000
Meter D	NE1 234	2023	5,000

**Step 1:** Calculate proportion of electricity from each meter which is consumed by the eligible business.

$$\text{Meter A} = 80,000 / (80,000 + 2,000) = 97.5\%$$

$$\text{Meter B} = 100\%$$

**Step 2:** Calculate the proportion of electricity from each meter used to produce eligible products (2013 is eligible and 2023 is ineligible).

$$\text{Meter A} = 70,000 / 80,000 = 87.5\%$$

$$\text{Meter B} = 5,000 / 10,000 = 50\%.$$

**Step 3:** The maximum aid intensity is 100%. This is multiplied by the proportion of electricity consumed from the meter by the eligible business to make eligible products. This is the final proportion which will be applied by the energy supplier.

$$\text{Meter A} = 97.5\% \times 87.5\% \times 100\% = \mathbf{85.3\%}$$

$$\text{Meter B} = 100\% \times 50\% \times 100\% = \mathbf{50\%}$$

## 7) Annex 1: Eligible activities

Description of activity	NACE Rev 2 Class
Mining of hard coal	05.10
Quarrying of ornamental and building stone, limestone, gypsum, chalk and slate	08.11
Operation of gravel and sand pits; mining of clays and kaolin	08.12
Other mining and quarrying not elsewhere classified	08.99
Processing and preserving of poultry meat	10.12
Manufacture of grain mill products	10.61
Manufacture of prepared feeds for farm animals	10.91
Manufacture of malt	11.06
Preparation and spinning of textile fibres	13.10
Weaving of textiles	13.20
Manufacture of knitted and crocheted fabrics	13.91
Manufacture of carpets and rugs	13.93
Manufacture of non-wovens and articles made from non-wovens, except apparel	13.95
Manufacture of other technical and industrial textiles	13.96
Manufacture of other textiles not elsewhere classified	13.99
Manufacture of other wearing apparel and accessories	14.19
Manufacture of knitted and crocheted hosiery	14.31
Manufacture of other knitted and crocheted apparel	14.39
Tanning and dressing of leather; dressing and dyeing of fur	15.11
Sawmilling and planing of wood	16.10
Manufacture of veneer sheets and wood-based panels	16.21
Manufacture of other products of wood; manufacture of articles of cork, straw and plaiting materials	16.29
Manufacture of paper and paperboard	17.12
Manufacture of corrugated paper and paperboard and of containers of paper and paperboard	17.21

Description of activity	NACE Rev 2 Class
Manufacture of household and sanitary goods and of toilet requisites	17.22
Manufacture of wallpaper	17.24
Manufacture of refined petroleum products	19.20
Manufacture of industrial gases	20.11
Manufacture of other inorganic basic chemicals	20.13
Manufacture of other organic basic chemicals	20.14
Manufacture of fertilisers and nitrogen compounds	20.15
Manufacture of plastics in primary forms	20.16
Manufacture of synthetic rubber in primary forms	20.17
Manufacture of man-made fibres	20.60
Manufacture of rubber tyres and tubes; retreading and rebuilding of rubber tyres	22.11
Manufacture of other rubber products	22.19
Manufacture of plastic plates, sheets, tubes and profiles	22.21
Manufacture of plastic packing goods	22.22
Manufacture of other plastic products	22.29
Manufacture of flat glass	23.11
Manufacture of hollow glass	23.13
Manufacture of glass fibres	23.14
Manufacture and processing of other glass, including technical glassware	23.19
Manufacture of refractory products	23.20
Manufacture of ceramic tiles and flags	23.31
Manufacture of bricks, tiles and construction products, in baked clay	23.32
Manufacture of other technical ceramic products	23.44
Manufacture of other ceramic products	23.49
Manufacture of cement	23.51
Manufacture of lime and plaster	23.52
Manufacture of plaster products for construction purposes	23.62
Manufacture of fibre cement	23.65

Description of activity	NACE Rev 2 Class
Manufacture of other non-metallic mineral products not elsewhere classified	23.99
Manufacture of basic iron and steel and of ferro-alloys	24.10
Manufacture of tubes, pipes, hollow profiles and related fittings of steel	24.20
Cold drawing of bars	24.31
Cold rolling of narrow strip	24.32
Cold drawing of wire	24.34
Aluminium production	24.42
Lead, zinc and tin production	24.43
Copper production	24.44
Other non-ferrous metal production	24.45
Casting of iron	24.51
Casting of steel	24.52
Casting of light metals	24.53
Casting of other non-ferrous metals	24.54
Manufacture of light metal packaging	25.92
Manufacture of electronic components	26.11
Manufacture of batteries and accumulators	27.20
Manufacture of other electronic and electric wires and cables	27.32
Manufacture of machinery for metallurgy	28.91

## 8) Annex 2: Information required from applicants: checklist

No.	Requirement	
1	A contact name, address and e-mail address.	
2	The business's name and evidence of its legal status (for example, Companies House registration number).	
3	Details of the eligible product (using the relevant 4-digit NACE Code).	
4	The 8-digit PRODCOM Code (this is required for monitoring purposes only).	
5	A statement setting out the business's financial year.	
6	Except where the application relates to a "new business" (as defined in the Regulations), a statement setting out the accounting standards to which the annual accounts have been prepared.	
7	If applicable <sup>12</sup> , evidence of the earnings (EBITDA) and the staff costs of the business in the relevant period.	
8	If applicable <sup>13</sup> , evidence of the total amount of electricity consumed in the UK by the business in the relevant period (i.e. from all meter points and any other sources of electricity which the business uses), the total grid electricity consumption of the business in the relevant period and the amount paid by the business for the total grid electricity consumption. To prove this, we will require May and November bills for the relevant period.	
9	Details of the electricity meter which measures the supply of electricity used for a specified activity including: <ul style="list-style-type: none"> <li>- the MSID and, in the case of a meter registered in CMRS, the BM Unit Identification Number</li> <li>- the amount of electricity measured by that meter in the previous calendar year</li> </ul>	

<sup>12</sup> For a business with three or more years of annual accounts, this is required on the first application and if it meets the eligibility test, the business will be able to apply four more times for an EII certificate before this information will be required again.

<sup>13</sup> For a business with three or more years of annual accounts, this is required on the first application and the business will be able to apply four more times for EII certificate before this information will be required again.

	<ul style="list-style-type: none"> <li>- the name and contact details of the electricity supplier (or, if applicable, the third-party supplier)</li> <li>- the sum paid to the electricity supplier for the supply of electricity during the previous calendar year.</li> </ul>	
10	A statement that either all the electricity supplied to the meter which is subject to the application is used by the business concerned or details of the proportion shared with any third party and the name of the third party.	
11	<p>Evidence of the proportion of electricity measured by the meter that was used for a specified activity:</p> <ul style="list-style-type: none"> <li>- if there is a “continuing change” at the date of the application, in the period up to twelve months beginning on the date on which the last continuing change commenced, as long as there is at least three months’ evidence:</li> <li>- in any other case, either in the calendar year preceding the application or, if the supply to the meter began after the start of that year, in the period of up to twelve months beginning on the date on which supply began.</li> </ul>	
12	Where at the date of the application there is a continuing change, a statement setting out the date on which the last continuing change commenced.	
13	If applicable, evidence of any force majeure and its effect on the amount of electricity used by the business in the relevant period.	
14	Where an applicant does not itself pay for the electricity supply, the name of the person who pays for it.	

[inside of the back cover – for printed publications, leave this page blank]

---

### **Legal disclaimer**

Whereas every effort has been made to ensure that the information in this document is accurate the Department for Business and Trade does not accept liability for any errors, omissions or misleading statements, and no warranty is given or responsibility accepted as to the standing of any individual, firm, company or other organisation mentioned.

### **Copyright**

© Crown Copyright 2024

You may re-use this publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence visit:

[www.nationalarchives.gov.uk/doc/open-government-licence](http://www.nationalarchives.gov.uk/doc/open-government-licence) or email: [psi@nationalarchives.gov.uk](mailto:psi@nationalarchives.gov.uk).

Where we have identified any third party copyright information in the material that you wish to use, you will need to obtain permission from the copyright holder(s) concerned.

This document is also available on our website at <https://www.gov.uk/dbt>.

Any enquiries regarding this publication should be sent to us at

[enquiries@businessandtrade.gov.uk](mailto:enquiries@businessandtrade.gov.uk).