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PART 1

ELECTRICITY GENERATOR LEVY

Charge

1 Charge on exceptional generation receipts

- (1) If a qualifying generating undertaking has exceptional generation receipts for a qualifying period, that undertaking is liable to pay a charge equal to 45% of those exceptional receipts.
- (2) The charge is referred to in this Part as the “electricity generator levy”.
- (3) A generating undertaking is “qualifying” in a qualifying period if generation attributed to it under this Part (see section 3, but also sections 15 and 16) for that period exceeds the levy threshold.
- (4) The levy threshold for a qualifying period is—
 - (a) where the period is a year, 50,000 megawatt hours, or
 - (b) where the period is shorter than a year, that number of megawatt hours multiplied by the amount given by dividing the number of days in the period by 365.
- (5) To determine if a generating undertaking has exceptional generation receipts for a qualifying period and (if so) the amount of those receipts, take the following steps—

Step 1 (attribute generation receipts)

Determine the amount of generation receipts to be attributed to the undertaking for the period in accordance with section 4.

Step 2 (determine the maximum amount of receipts that would not be exceptional)

Multiply the amount of electricity generation (expressed in megawatt hours) attributed to the undertaking for the period (see section 3) by the benchmark amount (see section 2).

Step 3 (determine whether undertaking has receipts that exceed that amount)

Subtract the result of Step 2 from the amount determined under Step 1. If the result of this Step is nil or less, the undertaking does not have any exceptional generation receipts (otherwise, carry on to Step 4).

Step 4 (subtract allowable costs)

Determine the amount of allowable costs (if any) to be attributed to the undertaking for the period (see section 5) and subtract that amount from the result of Step 3.

If the result of this Step is nil or less, the undertaking does not have any exceptional generation receipts (otherwise, carry on to Step 5).

Step 5 (apply revenue allowance)

Subtract the revenue allowance for the period from the result of Step 4.

Step 6 (result of Step 5 is amount of exceptional generation receipts unless negative)

If the result of Step 5 is nil or less, the undertaking does not have any exceptional generation receipts.

Otherwise, the amount of exceptional generation receipts the undertaking has for the period is the result of Step 5.

- (6) For the purposes of Step 5, the revenue allowance for a generating undertaking for a qualifying period is –
- (a) where the period is a year, £10 million, or
 - (b) where the period is shorter than a year, £10 million multiplied by the amount given by dividing the number of days in the period by 365.
- (7) Other provisions in this Part may affect the determination of exceptional generation receipts, including –
- (a) section 14, which contains provision attributing amounts from a joint venture to its participants,
 - (b) section 15, which contains provision that attributes generation to participants in a joint venture in certain circumstances,
 - (c) section 16, which contains provision that attributes generation to significant minor shareholders in a generating undertaking in certain circumstances, and
 - (d) section 22, which contains anti-avoidance provisions.
- (8) In this Part –
- “company” has the meaning it has in the Corporation Tax Acts (see section 1121 of CTA 2010);
- “generating undertaking” means –
- (a) a company, other than a company that is a member of a group, that operates a relevant generating station, or
 - (b) a group of companies that includes at least one member who operates a relevant generating station;
- a generating station is “relevant” –
- (a) if it generates electricity at a relevant place and is not a generating station that mainly generates electricity –
 - (i) as a result of the burning of oil, coal or natural gas, or
 - (ii) as a result of the use of plant driven by water, where the power is mainly a result of the hydrostatic head of the water having been increased by pumping, and
 - (b) to the extent that is not subject to –
 - (i) a contract for difference within the meaning of Chapter 2 of Part 2 of the Energy Act 2013 (contracts for difference),
 - (ii) an investment contract within the meaning of Schedule 2 to that Act (investment contracts), or
 - (iii) feed-in tariff export payments;
- “relevant place” means a place in –
- (a) the United Kingdom,

- (b) the territorial sea of the United Kingdom, or
 - (c) a Renewable Energy Zone within the meaning of Part 2 of the Energy Act 2004 (see section 84(4) of that Act);
- a generating station is “subject” –
- (a) to a contract for difference or an investment contract to the extent that its output may give rise to payments under such an instrument, and
 - (b) to feed-in tariff export payments to the extent its output gives rise to such payments.
- (9) References in this Part to a “qualifying period” in relation to a generating undertaking means –
- (a) the period, if any, between the beginning of 1 January 2023 and the commencement of the first accounting period of the undertaking that commences on or after 1 January 2023,
 - (b) the first accounting period of the undertaking commencing on or after 1 January 2023,
 - (c) every subsequent accounting period of the undertaking that ends on or before 31 March 2028, and
 - (d) the period, if any, between the end of the last accounting period ending on or before 31 March 2028 and the end of 31 March 2028.
- (10) References in this Part to an “accounting period” are –
- (a) in relation to a company within the charge to corporation tax, to an accounting period for the purposes of that tax, or
 - (b) in relation to a company not within the charge to corporation tax, to a period that would be an accounting period for the purposes of that tax were the company within the charge to that tax and had first come within it on 1 January 2023.

See also section 9, which provides that the accounting period of a generating undertaking that is a group is the accounting period of its lead member.

2 Benchmark amount

- (1) The benchmark amount for the financial years ending in 2023 and 2024 is £75.
- (2) The benchmark amount for each subsequent financial year is the benchmark amount for the previous financial year –
 - (a) increased or decreased by the same percentage as the consumer prices index for the December before the start of that subsequent financial year has increased or decreased from that index for the previous December, and
 - (b) rounded up to the nearest whole penny.
- (3) Before the commencement of each of the financial years ending in 2025 to 2028, His Majesty’s Revenue and Customs must publish the benchmark amount for that financial year in such manner as they consider appropriate.

- (4) Subsections (5) to (7) apply where 2 financial years fall within a qualifying period.
- (5) Generation attributed to a generating undertaking for that period is to be allocated, on a fair and reasonable basis, between those financial years.
- (6) The calculation in Step 2 of section 1(5) is to be applied to separately to the generation allocated to each of those financial years by reference to the benchmark amount for that year.
- (7) Accordingly, the result of that Step is to be the sum of those calculations.
- (8) In this section—
 - “consumer prices index” means the all items consumer prices index published by the Statistics Board;
 - “financial year” means a period of twelve months ending with 31st March.

3 Attribution of generation

- (1) The following amounts of generation, expressed in megawatt hours, are to be attributed to a generating undertaking for a qualifying period—
 - (a) any grid connected electricity generation of a relevant generating station of the undertaking for the period, and
 - (b) the amount given by multiplying—
 - (i) the amount (if any) of grid connected electricity generation for the period of a relevant generating station that is operated by a qualifying partnership in relation to the undertaking (see section 12), by
 - (ii) the qualifying proportion for that period (see that section).
- (2) For the purposes of this Part, a generating station is a generating station of a generating undertaking if—
 - (a) in the case of an undertaking that is a company, it is operated by that company otherwise than in partnership with another person, and
 - (b) in the case of an undertaking that is a group, it is operated by any member of that group—
 - (i) including where the station is operated in partnership and all of the partners are members of the group, but
 - (ii) not including where the station is operated in partnership and one or more of the partners are not members of the group.
- (3) “Grid connected electricity generation” of a relevant generating station for a qualifying period means—
 - (a) electricity generated by the station in that period for the purpose of giving a supply to any premises or enabling a supply to be so given where that supply would involve the use of a distribution system or a transmission system, and
 - (b) electricity that was, at any time, expected to be (but was not) generated by the station in that period for that purpose.

- (4) But for the purposes only of—
- (a) section 1(3) (application of levy threshold), and
 - (b) Step 2 in section 1(5) (determination of maximum amount of receipts that would not be exceptional),

ignore any electricity that was expected to be, but was not, generated by a relevant generating station unless the electricity was not generated in connection with an accepted bid to decrease generation under a settlement code.

4 Generation receipts

- (1) Where generation is attributed to a generating undertaking under section 3(1) for a qualifying period, generation receipts in respect of that generation are to be attributed to that undertaking for that period.
- (2) In this Part “generation receipts” means amounts that it is fair and reasonable to attribute to generation attributed under section 3(1) (whether or not they are received by, or otherwise arise to the operator of the station) on the basis that the amounts reflect, directly or indirectly, the amount realised (or to be realised) for the wholesale purchase of electricity arising from that generation (whether or not the electricity is actually generated).
- (3) In determining the amounts realised (or to be realised) for the wholesale purchase of electricity the following are, amongst other things, to be taken into account—
 - (a) amounts received in accordance with a settlement code in connection with accepted offers to increase generation (but not amounts in connection with accepted bids to decrease generation);
 - (b) imbalance charges under such a code;
 - (c) payments and receipts under arrangements whose principal purpose is to act as a hedge of the exposure to changes in the price of electricity where those arrangements relate to generation attributed under section 3(1).
- (4) The arrangements referred to in subsection (3)(c) may include arrangements comprising, or that include the use of, options, futures and contracts for difference (within the meaning of Part 7 of CTA 2009).
- (5) The Treasury may, by regulations, make provision about when amounts can (and cannot) be fairly and reasonably attributed to generation under subsection (2).
- (6) Regulations may also provide that—
 - (a) amounts of a specified description are always to be treated as generation receipts;
 - (b) amounts of a specified description are never to be treated as generation receipts.

“Specified” means specified in the regulations.

- (7) Subsection (8) applies to generation attributed to a generating undertaking under section 3(1) if—
- (a) provision, within the meaning of Part 4 of TIOPA 2010, has been made or imposed as between two persons by means of a transaction or series of transactions,
 - (b) that provision relates to that generation,
 - (c) if instead of that provision the arms length provision had been made or imposed, one of those persons would have an amount that it is fair and reasonable to attribute the generating undertaking in accordance with subsection (2), and
 - (d) were that person within the charge to corporation tax, their profits and losses would be calculated (as a result of Part 4 of TIOPA 2010) as if the arms length provision had been made or imposed instead of the provision actually made or imposed.
- (8) Where this subsection applies to generation attributed to a generating undertaking, generation receipts in respect of it are to be determined as if the arms length provision had been made or imposed instead of the provision actually made or imposed.
- (9) In this Part “the arms length provision” has the meaning it has in Part 4 of TIOPA 2010.

5 Allowable costs

- (1) “Allowable costs” means—
- (a) exceptional generation fuel costs of relevant generating stations (see section 6),
 - (b) exceptional revenue sharing costs in respect of relevant generating stations (see section 7),
 - (c) qualifying electricity purchase costs (see subsections (6) and (7)), and
 - (d) such other descriptions of costs as may be specified in regulations made by the Treasury.
- (2) Allowable costs may only be attributed to a generating undertaking for a qualifying period to the extent—
- (a) those costs are fairly and reasonably attributable to generation receipts attributed to the undertaking for the period,
 - (b) they reflect expenses of the undertaking (or, in the case of an undertaking that is a group, of one or more of its members), and
 - (c) those costs are not already reflected in the determination of the amounts of those receipts.
- (3) Allowable costs are only to be attributed to a generating undertaking if a claim is made for those allowable costs in a company tax return. In this Part “company tax return” has the same meaning as in Schedule 18 to FA 1998 (see paragraph 3(1) of that Schedule).
- (4) Subsection (5) applies to allowable costs of a person (“the cost holder”) to be attributed to a generating undertaking if—

- (a) the costs arise as a result of provision made or imposed as between the cost holder and another person by means of a transaction or series of transactions, and
 - (b) were the cost holder within the charge to corporation tax, the cost holder's profits and losses would be calculated (as a result of Part 4 of TIOPA 2010) as if the arms length provision had been made or imposed instead of the provision actually made or imposed.
- (5) Where this subsection applies to allowable costs, the amount of those costs is to be determined as if that arms length provision had been made or imposed instead of the provision it arose as a result of.
- (6) In this section “qualifying electricity purchase costs” means costs reasonably incurred in the purchase of electricity in order to comply with the terms of an agreement under which it was expected that a relevant generating station will generate but does not do so.
- (7) The Treasury may by regulations provide that such descriptions of costs as may be specified in the regulations are, or are not, qualifying electricity purchase costs.

6 Exceptional generation fuel costs

- (1) For the purposes of a claim for allowable costs by a generating undertaking, the amount (if any) of “exceptional generation fuel costs” of a relevant generating station for a qualifying period is to be determined as follows—

Step 1

Determine the generation fuel costs for the station for that period.

Step 2

Divide the amount of those costs by the amount of electricity generated by the station in that period (expressed in megawatt hours).

Step 3

Determine the baseline fuel cost of the station.

Step 4

If the result of Step 2 is the same as or less than the baseline fuel cost, there are no exceptional generation fuel costs of the station for that period.

Step 5

If the result of Step 2 is greater than the baseline fuel cost, subtract the baseline fuel cost from the result of Step 2.

Step 6

Multiply the amount of electricity generated by the station in that period by the result of Step 5 to give the amount of exceptional generation fuel costs of the station for that period.

- (2) The “generation fuel costs” of a relevant generating station for a period means costs which, on a fair and reasonable basis, can be directly attributed to the

acquisition of fuel used for generating electricity in that period (which may include the costs of transporting such fuel).

- (3) The baseline fuel cost of a relevant generating station is the lesser of –
 - (a) the average generation fuel costs of the station per megawatt hour for the reference period specified in the claim for allowable costs, determined on a fair and reasonable basis (and which cannot be less than nil), and
 - (b) £65 per megawatt hour.
- (4) Subject to subsection (5), the reference period that may be specified in the claim must –
 - (a) be a period of at least 12 months in which there is a period of 3 months in which the generating station was generating on 50% or more of the days in that 3 month period,
 - (b) commence no earlier than 1 January 2017, and
 - (c) end no later than 1 March 2020.
- (5) Where a reference period cannot be specified in the claim in accordance with subsection (4) because there is no period of at least 12 months between 1 January 2017 and 1 March 2020 in which there is a period of 3 months in which the generating station was generating on 50% or more of the days in that 3 month period –
 - (a) a period of 12 months commencing no earlier than 1 January 2017 and ending no later than 1 March 2020 may be specified as the reference period,
 - (b) the average generation fuel costs of the station for the purposes of subsection (3)(a) is to be determined as a fair and reasonable estimate of what those costs would have been –
 - (i) had the generating station been generating in that period, and
 - (ii) had it been generating on a similar basis in that period as it had been generating in the period of 12 months ending with the end of the qualifying period to which the claim relates.
- (6) Where a generating station uses more than one type of fuel, a generating undertaking making a claim for allowable costs in respect of the exceptional fuel costs of that station may calculate the exceptional generation fuel costs in relation to each type of fuel separately, and may specify different reference periods for those calculations.
- (7) Where a generating undertaking makes a claim for allowable costs in respect of exceptional generation fuel costs of two or more generating stations that use the same type of fuel, the same reference period must be specified in relation to the calculation of exceptional generation costs in relation to fuel of the same type.

maintained in accordance with the conditions of transmission licences granted under section 6(1)(b) of the Electricity Act 1989 as that code has effect from time to time;

“distribution system” and “transmission system” mean anything which would be such a system for the purposes of—

- (a) Part 1 of the Electricity Act 1989, or
- (b) Part 2 of the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1));

“feed-in tariff export payments” means export payments within the meaning of Schedule A to Condition 33 of the standard conditions of electricity supply licences;

“the SEM Memorandum” means the Memorandum of Understanding referred to in Article 2(3) of the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007 (S.I. 2007/913 (N.I. 7)).

“settlement code” means—

- (a) the Balancing and Settlement Code, or
- (b) the Trading and Settlement Code;

“the standard conditions of electricity supply licences” means the standard conditions incorporated in licences under section 6(1)(d) of the Electricity Act 1989 by virtue of section 8A of that Act;

“the Trading and Settlement Code” means the Single Electricity Market Trading and Settlement Code referred to in the SEM Memorandum as that code has effect from time to time.

27 Definitions in this Part

The following table contains a list of terms used in this Part and the provisions that define or explain them.

Term	Provision defining or explaining
accounting period (generally)	section 1(10)
accounting period (of a generating undertaking that is a group)	section 9(1)
allowable costs	section 5(1)
arms length provision	section 4(9)
Balancing and Settlement Code	section 26
baseline fuel cost	section 6(2)
company	section 1(8)
company tax return	section 5(3)
distribution system	section 26
electricity generator levy	section 1(2)

Term	Provision defining or explaining
exceptional generation fuel costs	section 6(1)
feed-in tariff export payments	section 26
generating undertaking	section 1(8)
generation fuel costs	section 6(2)
generation receipts	section 4(2)
grid connected electricity generation	section 3(3)
group	section 8(1)
joint venture undertaking	section 14(2)
lead member (of a group)	section 9(2)
principal member (of a group)	section 8(2)
qualifying electricity purchase costs	section 5(6)
qualifying joint venture	section 13(1)
qualifying partnership	section 12(1)
qualifying period	section 1(9)
reference period (in relation to the determination of baseline fuel cost)	section 6(4)
relevant generating station	section 1(8)
relevant place	section 1(8)
SEM Memorandum	section 26
settlement code	section 26
significant equity holder	section 7(6)
significant minority shareholder (that is a person)	section 11(5)(a)
significant minority shareholder (that is a group of companies)	section 11(5)(b)
standard conditions of electricity supply licences	section 26
subject to a contract for difference, an investment contract or feed-in tariff export payments (in relation to a generating station)	section 1(8)
third party (in relation to a generating undertaking)	section 7(6)

Term	Provision defining or explaining
Trading and Settlement Code	section 26
transmission system	section 26
