



Department for
Business, Energy
& Industrial Strategy

ELECTRICITY INTENSIVE INDUSTRIES: RELIEF FROM THE INDIRECT COSTS OF RENEWABLE ENERGY SCHEMES: WIDENING ELIGIBILITY

Government response

October 2019



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Overview

Summary

The Government published a consultation¹ in June 2018 seeking views on whether there was evidence of competitive distortions resulting from the current eligibility threshold for energy intensive industries (EIIs) that were entitled to the exemption from a proportion of the indirect costs of the renewable electricity schemes, namely Contracts for Difference (CFD), the Renewables Obligation (RO) and, if introduced, the small-scale Feed-In-Tariff (FIT). The current eligibility criterion, for businesses in eligible sectors, is 20% electricity intensity.

We also sought views on whether:

- if there was evidence that the current threshold is causing or could cause significant competitive distortions, to address those distortions by lowering the electricity intensity threshold to either 17%, 15% or 10%; and
- if we were to lower the threshold, to lower the aid intensity for EIIs with lower levels of electricity intensity in order to minimise the impacts on other consumers.

In addition to consulting on whether to lower the electricity intensity threshold, we also consulted on proposals not to redistribute money recovered from over-exempted EIIs and on improving operation of the exemption schemes.

Finally, the consultation document invited evidence from sectors seeking to be considered for inclusion in the eligible sector list.

Background

Widening eligibility for EII exemption schemes

1. The Government set out a commitment in the Industrial Strategy White Paper² to “consult on widening eligibility for the exemption schemes for energy-intensive industries to address potential intra-sectoral competitive distortions, taking into consideration the impact on consumer bills”.
2. This was in response to concerns raised by a number of EIIs that the relief schemes might create competitive distortions. This is because eligibility for the schemes is currently based on two tests. An applicant needs to produce an eligible product and must pass the “business-level” test, whereby only

¹ The consultation *Energy intensive industries: Relief from the indirect costs of renewable energy schemes – widening eligibility* is available at: <https://www.gov.uk/government/consultations/widening-eligibility-for-renewable-electricity-cost-relief-schemes>

² *Industrial Strategy: building a Britain fit for the future* <https://www.gov.uk/government/publications/industrial-strategy-building-a-britain-fit-for-the-future>

companies with an electricity intensity of 20% or higher are eligible for aid, thus excluding those with electricity intensity below 20%. This could lead to distortions within sectors where one company receives relief, whilst another making the same product does not.

3. The initial aim of the consultation, therefore, was to establish whether there was evidence that the current eligibility threshold of 20% electricity intensity could create competitive distortions among EIs. Subject to evidence that the current test is causing or could cause significant competitive distortions, the consultation also sought views on how to mitigate such distortions. To this end, the consultation set out three options, namely, to lower the threshold from the current 20% electricity intensity to:
 - a) 17% electricity intensity;
 - b) 15% electricity intensity; or
 - c) 10% electricity intensity.
4. However, while lowering the electricity intensity threshold to any of the above levels would enable more EIs to benefit from the exemption schemes, any of the lower thresholds would add further costs onto the electricity bills of ineligible consumers, including households and other businesses. The bill impacts of these alternative lower eligibility thresholds were set out in the Impact Assessment published with the consultation document.
5. The Government commitment in the Industrial Strategy White Paper to consult on widening the scope of eligibility for the exemption schemes specifically added that this should “take into consideration the impact on consumer bills”. The consultation therefore sought views on an approach to lower the eligibility threshold in a way that manages the cost to other consumers. Specifically, we set out and consulted on three approaches, namely, to reduce aid intensity (i.e. the amount of exemption that a company receives) for EIs with lower levels of electricity intensity to:
 - a) 50% for businesses with electricity intensity at or above 17 and below 20%;
 - b) 50% for businesses with electricity intensity at or above 15 and below 20%;
 - c) 50% for businesses with electricity intensity at or above 15 and below 20%; 35% for businesses with electricity intensity at or above 10 and below 15%.

6. Under all the above scenarios, aid intensity would remain at 85% for businesses with electricity intensity at or above 20%. Businesses that are eligible under the current electricity intensity threshold to receive relief at 85% aid intensity would thus have the certainty of continuing to do so.

Redistribution of recovered money from over-exempted Ells

7. EU State aid law requires that the value of any over-exemption to Ells be recovered. We previously consulted on options to redistribute any amount recovered back to consumers via electricity suppliers. However, the options available would not guarantee that any over-exemption is fully redistributed to the correct consumers and would require new legislation and processes that would add complexity and administrative burden.
8. As a result, we concluded that redistribution of recovered over-exemptions would not currently be justified given our assessment that the impact of redistributing the value of over-exemption to consumers would be to decrease the average household electricity bill by a small amount (less than 10p a year), while the complexity and administrative burden of the processes involved would be disproportionately high. We therefore consulted on an alternative proposal to recover the value of any over-exemption without redistribution of this value back to consumers.

Improving operation of the exemption schemes

9. As set out in chapter 7 of the consultation document, we consulted on proposed changes to the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015 (“the Regulations”), which we consider will improve operation of the EII exemption schemes. The changes relate to:
 - how quickly an existing business opening a new meter may receive the exemption for that meter;
 - how quickly the level of exemption may be adjusted for i) a business that starts to share a meter or stops sharing a meter with another business and ii) a business that starts or stops making an ineligible product using electricity from an exempted meter;
 - the expiry date for EII certificates;
 - the timing of quarterly reports from businesses.

Responses received to the consultation

10. During the consultation, we organised two workshops attended by a range of stakeholders, and also held meetings with stakeholders to discuss the issues. The workshops and meetings informed our thinking on the way forward.

11. We received a total of 58 responses to the consultation. Of these, 23 were from manufacturers (both eligible and ineligible for the EII exemption schemes), 16 from trade associations and industry bodies, 12 from energy suppliers and 7 from other sources (including Devolved Administrations, regulator, consumer organisation and other businesses). For a list of individual respondents, please refer to Annex A.

In response to the consultation, the Government has made the following decisions:

- The eligibility threshold for the exemption schemes will be maintained at the current 20% electricity intensity.
- The aid intensity will remain at the current 85% level.
- We will amend the relevant legislation to add the flour milling sector to the list of eligible sectors.
- We will not redistribute monies recovered from over-exempted companies to other consumers. We will keep under review the amount recovered and publish this amount periodically.
- We will implement the proposals set out in the consultation document on improving the operation of the exemption schemes.

1. The options for new eligibility criteria

12. Chapter 3 of the consultation document set out the options for new eligibility criteria. Specifically, we consulted on whether to keep the eligibility threshold at the current level of 20% electricity intensity, and, if not, whether to lower it to: 17%, 15% or 10%. The following is the breakdown of the responses to the questions asked.

Question 1

| Consultation Question | 58 Responses |
|--|--------------|
| Should the level of eligibility threshold for the exemption schemes be maintained at 20% electricity intensity? If yes, please explain why. If no, please provide evidence of the existence and extent of any competitive distortions that would suggest that the current electricity intensity threshold should be changed. | |
| Yes | 22 |
| No | 30 |
| Not answered | 6 |

Summary of stakeholder responses to consultation

13. Question 1 received 58 specific responses. The majority of the respondents (30) said that the current 20% electricity intensity threshold should not be maintained, whilst a significant number (22) said that the current threshold should be maintained.
14. The main arguments made by those who were not in favour of maintaining the current 20% electricity intensity threshold were as follows:
- Lowering the threshold would help address intra-sectoral competitive distortions in the UK as the current threshold gives a financial advantage to some companies over their direct competitors. For example, one trade association said that 50% of companies in its sector are eligible, while the other 50% are not. Companies that are below the threshold are being penalised for being more energy efficient than their competitors.
 - Lowering the threshold would help UK industries to compete on a more level-playing field with their EU counterparts as the UK's 20% electricity intensity

threshold is higher than the thresholds applied in other EU states, such as Germany and France. Industrial electricity prices in the UK are higher than in most EU countries so British industry faces a significant competitive disadvantage. Lowering the threshold would reduce the competitive disadvantage for more ELLs and help Britain rebuild its manufacturing sectors.

- The redistributive effects of extending relief (reflected in higher bills for ineligible electricity consumers) are small compared with the economic benefits of a more level playing field for British industry. Respondents noted there could be positive impacts on productivity, balance of trade and job security for ELL employees.
- The current 20% threshold is a cliff-edge with the risk that some companies currently having 20% electricity intensity could drop below the threshold if their EBITDA improves for reasons completely separate from energy usage.
- The current threshold unfairly penalises those who miss it marginally. For instance, a company could have 19.8% electricity intensity and would not be eligible while its direct competitors at 20% are eligible. This creates unfair intra-sectoral distortions.

15. The respondents who favoured maintaining the current electricity intensity threshold, however, made the following comments:

- Lowering the threshold would increase the electricity bills of ineligible customers, with disproportionate impact on households, including fuel poor consumers, and SMEs. It would also increase costs for non-exempt energy intensive companies. For example, one trade association said lowering the 20% threshold would add up to 1% to the electricity costs of manufacturers in its sector.
- There is insufficient evidence of the overall benefit to the UK economy from lowering the threshold and further redistributing costs across ineligible consumers, noting that the success of the existing scheme has not yet been assessed.
- The proposals are inconsistent with the polluter pays principles because they would exempt higher polluters from the costs incurred in decarbonising the economy. They may have the unintended and undesirable consequence of discouraging investments in energy efficiency, in some cases, if this would result in the company falling below the exemption threshold.
- Lowering the threshold would simply move the cliff edge and those businesses below any revised threshold would still raise the issue.

- As any lowering of the threshold would only apply to companies belonging to sectors listed in Annex 3 of the European Commission's Energy and Environmental Aid Guidelines (EEAG) and not to those listed in Annex 5, such a change would be "inequitable" as it would create "a de facto two-tier system".
- Lowering the threshold would require suppliers to process more customer certificates and set up new administrative systems. This would impose further administrative costs on suppliers, which they would pass on to consumers.

16. Other comments made covered:

- A longer lead-in time is needed for any change to the threshold. This reflects system changes that suppliers may need to make to move from manual processes for a small number of EII customers to automated processes if the population of eligible EIIs increases significantly. It also reflects that supply contracts are priced and agreed some time ahead of delivery.
- It may be more socially acceptable if aid is targeted to provide support only where it makes a difference to a company's viability or if a business is only eligible where it provides evidence of detrimental impact/distortion, such as lost contracts.
- Any exemption distorts the market, widening eligibility would exacerbate this, and policy costs should be recovered through taxation instead.
- One trade association said that the UK-specific business-level test and the use of a fixed UK electricity 'reference price' disadvantages manufacturers in its sector, and preferred a reference price based, "more fairly on 'price paid' by companies as in some other Member States".

Government response

17. Taking account of the impact of lowering the current electricity intensity threshold on bills for other electricity consumers, including fuel poor households, and the limited evidence we received that the current 20% electricity intensity threshold is causing significant competitive distortions, we have decided not to lower the threshold for the exemption. It will remain at the current 20% electricity intensity level. We consider that the existing threshold and consequent allocation of costs between the most electricity-intensive EIIs and other electricity users is appropriate for now.

18. The Government continues to seek to minimise energy costs for businesses to ensure our economy remains strong and competitive. The Government

announced in Budget 2018 that an Industrial Energy Transformation Fund would be established worth up to £315 million to support businesses with high energy use to transition to a low carbon future and cut their bills through increased energy efficiency.

Question 2

Consultation Question

31 Responses

If the current 20% electricity intensity threshold is lowered, should it be set at 17%, 15% or 10%? Please provide any explanation or information available to support your view.

| | |
|--------------|----|
| 17% | 8 |
| 15% | 9 |
| 10% | 14 |
| Not answered | 27 |

Summary of stakeholder responses to consultation

19. There were a total of 31 respondents to Question 2. The majority, 14, favoured lowering the threshold to 10%. Of these 10 were manufacturers and the remaining 4 were trade associations. Nine respondents preferred 15%, of which 5 were manufacturers, 3 were trade associations and 1 other. Eight respondents favoured a 17% threshold: 5 were manufacturers, 2 electricity suppliers and 1 trade association.

20. Those who favoured the 10% option argued that:

- The threshold should be set at the lowest level necessary to address competitive distortions faced by energy intensive industries in the UK and internationally.
- One respondent said a 10% threshold “would create a more level playing field internationally for a bigger pool for UK industries”. Another respondent said it would help address uncertainty about future energy market prices.
- A few respondents said that a 10% threshold would address concerns around “cliff-edge” effects as it offered the most reduced risk of a currently eligible business becoming ineligible when its electricity intensity is re-assessed.

21. The main arguments of those who favoured the 15% threshold were:

- It provided a middle line or an appropriate balance between supporting more energy intensive businesses and managing the impact on other consumers.
- One respondent said a 15% threshold was a “sensible figure” to qualify as being “energy intensive”. Another respondent said that a 15% threshold would bring the UK into line with other EU countries.

22. Those who supported lowering the threshold to 17% gave the following reasons:

- This was an appropriate threshold for supporting more energy intensive businesses without disproportionately increasing the bills of non-exempt consumers or disincentivising investment in energy efficiency, optimisation and flexibility.
- Some felt that a 17% threshold would help EIs that faced the cliff-edge risk of dropping below the current 20% threshold as well as those currently close to that threshold (for instance at 19.8%) to be eligible.

23. Other respondents did not support any of the options on the grounds that any lower threshold would add costs to ineligible consumers’ bills, increase administrative costs for suppliers and create distortions between companies belonging to sectors listed in Annex 3 (which would benefit) and those belonging to sectors listed in Annex 5 (which would not).

Government response

24. As set out above, the Government has decided not to lower the current 20% electricity intensity threshold, so none of the above lower thresholds will apply to the exemption schemes.

Question 3

Consultation Question

42 Responses

Do you agree with our proposal not to include options below 10% electricity intensity in the consideration of a lower eligibility threshold for exemption schemes? Please provide any explanation or information available to support your view.

| | |
|--------------|----|
| Yes | 38 |
| No | 4 |
| Not answered | 16 |

Summary of stakeholder responses to consultation

25. Of the 42 respondents to this question, 38 supported the proposal not to include options below 10% electricity intensity in the consultation. Of this number, 20 were manufacturers, 7 trade associations and 7 electricity suppliers. Four respondents disagreed with the proposal. Of these, 2 were manufacturers and the remaining 2 were trade associations.
26. Comments made by those who supported the proposal not to consider options below the 10% threshold included:
- Businesses with electricity intensity below 10% would not face competitive pressure from rising electricity costs. Thus, lowering the threshold to below 10% would mean the relief is not targeted at the most “at risk” companies. One respondent said that any threshold below 10% electricity intensity would be “a step too far” and compromise the concept of energy intensity.
 - A number of the respondents pointed out that a threshold below 10% would significantly increase the costs for all consumers, particularly vulnerable households and SMEs. Some respondents said that a threshold below 10% would cause significant reduction in the relief being received by currently eligible companies. It would also significantly increase administrative costs for suppliers, which would be passed on to consumers, thus adding significantly to their bills.
 - A few respondents said that a threshold lower than 10% would discourage on-site investment in decarbonisation and energy efficiency.
27. The 4 respondents who favoured lowering the threshold below 10% made the following comments:
- Other EU member states did not introduce a business level test and, therefore, the UK-specific test created unjustified distortions. One of the respondents said the business-level test should be removed altogether and eligibility should be based on the sector-level test.
 - A trade association supported 7% electricity intensity for the business-level test (conditional on no detriment to the aid intensity level).
 - Another trade body said no lower threshold should be ruled out if there was enough evidence to justify widening eligibility to prevent competitive distortions.

Government response

28. As set out above, the Government has decided not to lower the electricity intensity threshold.

2. Adding new sectors to the eligible sector list

29. We indicated in the consultation document that we would consider new information from sectors currently deemed ineligible, based on our original evaluation of the relevant data, and therefore not included in the list of eligible sectors set out in secondary legislation. Thus, we invited any sector seeking to be included in the eligible sector list to provide relevant information showing that it passed the sector-level test. We indicated that we would assess any new information provided and, if satisfied that the sectors pass the test and are listed as eligible in the European Commission Energy and Environmental Aid Guidelines³, proposed to amend the relevant legislation to add those sectors, and any other sector in that situation, to the eligible sector list.

Summary of stakeholder responses

30. The flour milling sector submitted new evidence that this sector satisfies the trade and electricity intensity criteria to be added to the eligible sector list for the exemption schemes.

Government response

31. After careful analysis we concluded that the flour milling sector provided sufficient evidence that it meets the criteria for inclusion in the EII exemption schemes. As a result, we intend to amend the relevant legislation to add flour milling to the eligible sector list.

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0628%2801%29>

3. Mitigating the redistributive impact of lower eligibility thresholds

32. In Chapter 4 of the consultation document we sought views on how to strike the right balance between supporting EILs and managing the costs for other consumers, particularly by lowering the aid intensity in parallel with any lowering of the electricity intensity threshold.

Question 4

| Consultation Question | 43 Responses |
|--|--------------|
| Should the aid intensity be reduced for EILs in a lower tier of electricity intensity to manage costs for other consumers? Please provide any explanation or information to support your view. | |
| Yes | 22 |
| No | 21 |
| Not answered | 15 |

Summary of stakeholder responses to consultation

33. 22 respondents agreed with introducing tiering, whilst 21 respondents disagreed. EILs and their trade associations were split between those agreeing with tiering and those opposing it (with somewhat more opposing it). Other stakeholders, including electricity suppliers, generally agreed with tiering.

34. Comments made in support of tiering included:

- The lower the electricity intensity, the less a company is affected by rising electricity costs and aid should be focused on those industries where it is most needed to retain competitiveness.
- If eligibility were widened, tiering would reduce costs for other consumers, including households and businesses, being mindful that whilst the cost impact from this particular policy is small, policy costs in aggregate are significant.

3. Mitigating the redistributive impact of lower eligibility thresholds

- It would soften the disparity (cliff edge) between qualifying businesses and those that miss the threshold by a narrow margin, which could reduce competitive distortions and reduce any incentives to avoid investment in energy efficiency.
- It would soften the impact on a business if they qualify by a small margin and then miss the qualification threshold in subsequent years and fall out of the scheme.

35. Arguments against tiering were:

- A flat rate of aid intensity would keep things simple, whereas tiers would increase administrative complexity.
- Aid intensity should be the same for all eligible companies, to support their competitiveness, otherwise competitive distortion will remain. Reduced aid intensity could, for example, penalise companies that have invested in energy efficient machines and have a lower electricity intensity as a result.
- The economic benefits of extending 85% relief to more EIs, including job creation and incentives to invest, would outweigh the redistributive impact on other consumers. EIs also pay a portion of the fixed costs of the electricity system (such as transmission and distribution) and if UK EIs became unviable due to high electricity costs, other consumers would have to pay more for these fixed costs.
- Extending 85% relief to more EIs would send a signal to new and existing investors that Government is committed to creating a competitive environment for UK manufacturing for the long term.

36. Whilst supporting tiering, an electricity supplier made the point, based on their experience to date with the exemption, that reducing the eligibility threshold and/or aid intensity could lead to low exemption values (in £) and that the scale of the benefit to future eligible EIs should be considered against the operational time and effort for the Low Carbon Contracts Company (LCCC) and suppliers.

37. Other suggestions made were:

- The aid intensity should not be reduced as much as set out in the consultation paper.
- A sliding scale would be more appropriate [rather than a step change], to lessen the disparity between qualifying / non-qualifying / less intensive businesses and remove any disincentive to invest in energy efficiency projects that is an unintended consequence of a fixed threshold.

3. Mitigating the redistributive impact of lower eligibility thresholds

- Should a company fall and stay below the threshold, it should experience a tapering of the exemption over a three-year period.
- The scheme needs to be designed, if possible, to avoid businesses yo-yoing between relief / no relief / different levels of relief.
- The current 85% level of relief is too high for all eligible ELLs.

Government response

38. As we have decided not to lower the current 20% electricity intensity threshold, we will not reduce the current 85% aid intensity level.

Question 5

Consultation Question

33 Responses

If the aid intensity is reduced for ELLs in a lower tier of electricity intensity, do you agree with the structure set out in paragraph 4.8? If no, please explain what structure you would prefer.

| | |
|------------|----|
| Yes | 17 |
| No | 16 |
| Not answer | 25 |

Summary of stakeholder responses to consultation

39. 17 respondents agreed with the tiering structure set out in the consultation document, whilst 16 respondents disagreed. ELLs, their trade associations and electricity suppliers were all split between those agreeing with the tiering structure set out and those opposing it.

40. Those who did not support the tiering structure set out generally gave one of the following reasons:

- The eligibility threshold should not be lowered (or not without compelling evidence on competitive distortions).
- The threshold should be lowered but aid intensity should remain at 85% for all eligible ELLs.

3. Mitigating the redistributive impact of lower eligibility thresholds

- There is no evidence that the level of detriment faced by an EII [due to electricity costs] is proportionate to the electricity intensity of the business.
- Tiering is acceptable in principle but there should be a smaller difference between the aid intensities for EIIs in different tiers.

41. The following alternative options were put forward:

- The relief should be tapered, to provide a more seamless distribution of the exemption rate and avoid the possible unintended consequence that companies close to a threshold might be tempted to increase [electricity] consumption to achieve a significant increase in relief by moving up a threshold.
- There should be smaller differences between the aid intensity for different tiers, with two specific options being put forward:

| Electricity intensity | Aid intensity option 1 | Aid intensity option 2 |
|-----------------------|------------------------|------------------------|
| 17-20% | 85% | 80% |
| 15-17% | 75% | 75% |
| 10-15% | 50% | 60% |

42. One respondent noted that the choice of structure would be dependent to some extent on the evidence of where the worst competitive distortions sit.

Government response

43. As set out above, we will not reduce the aid intensity. It remains at the current 85% level.

Question 6

Consultation Question

36 Responses

Do you have any other suggestions for achieving the right balance between supporting EIIs and managing the cost to other consumers? If so, please tell us.

Summary of stakeholder responses to consultation

44. This question was answered by 36 of the 58 respondents to the consultation. Those who responded to the question included manufacturers, trade associations and energy suppliers. The main points made by the respondents were:

3. Mitigating the redistributive impact of lower eligibility thresholds

- The costs of UK energy and climate policy should be recovered through general taxation.
- Companies investing heavily in energy reduction should be rewarded with the most aid intensity.
- The Government should take note of equivalent policy in other EU member states, where recognition of the risk to competitiveness of trade-intensive EIs is common place.
- Keeping energy intensive users on the grid by reducing their renewable energy costs means greater sharing of the other fixed costs of the electricity system that all consumers have to pay (e.g. network and balancing costs).
- The European Commission State aid guidelines (EEAG) recognise that, given the increase in the number of renewable surcharges, it could still be burdensome for companies to bear 15% of the indirect costs of funding renewable support schemes. As a result, the EEAG allows member States to limit the overall amount to be paid at 0.5% of an undertaking's Gross Value Added (GVA) if that undertaking has an electricity intensity of at least 20%. BEIS should consider this option to more fully protect EIs.
- Government should change the rules to mandate suppliers to pass on energy price reductions.
- Use a sliding scale with % discount being directly related to the energy intensity of businesses. A sliding scale discount would remove some of the disincentive to invest in energy efficiency projects that is a by-product of the current scheme. The sliding scale could be a simple ratio relationship between % of energy intensity and % discount.
- Extend the lowered threshold to both Annex 3 and Annex 5 sectors on a tiered basis.

Government response

45. We are grateful for all the suggestions made. The Government considers that all consumers should pay their fair share of decarbonisation costs and that the existing allocation of the costs between industrial and non-industrial consumers is appropriate for now.

4. Impact Assessment and evidence of competitive distortions

46. In Chapter 5, we sought evidence on competitive distortions and suggestions for improving the impact assessment to better inform decisions following the consultation.

Questions 7 and 8

Consultation Questions

34 Responses

Q7. What was your company turnover in your last financial year?

Q8. What was your average electricity intensity in the last 3 financial years?

Q7 16 responses

Q8 18 responses

Summary of stakeholder responses to consultation

47. Question 7 received 16 responses, all from manufacturers. Due to the commercially sensitive nature of this question, responses cannot be revealed.

48. Question 8 received 18 responses, all from manufacturers. Answers ranged from 10% to 27%.

Government response

49. The Government has used these responses to help uncover the impact of lowering the electricity intensity threshold on sectors and individual businesses.

Question 9

Consultation Questions

10 Responses

Are there any other competitive issues that ineligible businesses face from eligible direct EII competitors? If any, please explain.

Summary of stakeholder responses to consultation

50. Question 9 received 10 responses: 7 manufacturers and 3 trade associations.

51. Respondents made the following suggestions:

- Similar relief schemes in some other European countries have a lower electricity intensity threshold than the UK, creating an international competitive disadvantage.
- The UK's high electricity price for large industrial users compared to other European countries and uncertainties could discourage further investment in the UK.
- The current electricity intensity threshold could discourage investments in energy efficiency that could lead to a business becoming ineligible as their electricity usage decreased.

Government response

52. The Government notes the responses and has taken them into account in its decision.

Question 10

Consultation Question

4 Responses

Do you have evidence which would help us to improve the estimated impact of each of the options for a lower electricity intensity threshold? If so, please provide the evidence.

Summary of stakeholder responses to consultation

53. Question 10 received 4 responses: 2 manufacturers and 2 trade associations. One respondent reported the number of additional businesses in their sector that would become eligible under a 10% electricity intensity threshold.

Government response

54. The Government has used this evidence to help certify its analysis on the impacts of lowering the electricity intensity threshold.

Question 11

Consultation Question

33 Responses

Do you have any other comments on the Impact Assessment?

| | |
|--------------|----|
| Yes | 16 |
| No | 17 |
| Not answered | 25 |

Summary of stakeholder responses to consultation

55. Question 11 received 16 responses with suggested improvements, of which 4 were from manufacturers, 7 from trade associations and 2 from energy suppliers.
56. Respondents recommended that the Impact Assessment contain analysis on the investment and employment effects from lowering the electricity intensity threshold. They also suggested including the number of newly eligible businesses, a regional breakdown of impacts and numerical analysis of fuel poverty effects.
57. Some respondents advised that bill impacts should account for the wider indirect costs of renewables policies, such as from increased system balancing costs. These should also include the impact that EII relief has on the incentive for recipients to remain using grid electricity, reducing network costs for all other consumers.

Government response

58. Whilst the Government recognises that including investment and employment effects would be useful, there is no robust evidence available to assess these impacts. Similarly, the Government does not possess data on ineligible businesses' electricity intensity so it is not possible to assess the number of newly eligible businesses nor regional impacts.
59. The impact of widening eligibility for the exemption on consumers, in particular those living in fuel poverty, was an important consideration in our decision. As we are not taking forward the option of lowering the electricity intensity threshold, and the bill impact due to adding the flour milling sector to the eligible sector list is small, our updated Impact Assessment estimates that there will be no statistically significant impact on the fuel poor.

60. The Government recognises that EII relief could reduce network costs for consumers, but we do not have evidence to justify this. The wider indirect costs of renewables policies are considered out of scope of this consultation.

5. Recovery of money from over-exempted EILs

61. In Chapter 6, we set out the legal position regarding the recovery of over-exemptions, and sought views on our proposal not to redistribute recovered over-exemptions back to suppliers.

Question 12

| Consultation Question | | 37 Responses |
|---|--|--------------|
| Do you agree with the proposal not to redistribute the value of recovered over-exemptions back to suppliers of other consumers (who could pass on the savings to consumers)? Please set out your reasons. | | |
| Yes | | 31 |
| No | | 6 |
| Not answered | | 21 |

Summary of stakeholder responses to consultation

62. The question received 37 responses from a mixture of manufacturers, trade associations, electricity suppliers and others. The majority responded that the option not to redistribute any money recovered would avoid adding complexity, administrative costs and uncertainty for an objective that would be unlikely to be guaranteed in the first place. Nonetheless, some respondents argued that the money that may have to be recovered should be kept under review, made transparent and put to use to increase industrial energy efficiency and/or reduce fuel poverty.
63. Respondents who disagreed with the proposal not to redistribute recovered money stated that it should be paid back to those consumers who pay for the scheme to exempt eligible EILs.

Government response

64. The Government notes the strong support for the proposal not to redistribute the value of recovered over-exemptions back to suppliers of other consumers.

Having considered the responses, we will not redistribute the monies recovered from over-exemptions. We will keep under review the amount recovered and publish this amount periodically.

65. We note the proposal that the money recovered could be put to use to increase energy efficiency. The Government announced, in Budget 2018, an Industrial Energy Transformation Fund worth up to £315 million to support businesses with high energy use to transition to a low carbon future and cut their bills through increased energy efficiency.



6. Improving operation of the exemption schemes

66. In Chapter 7, we sought views on a number of proposed changes, relating to: how quickly an existing business opening a new meter may receive the exemption for that meter; how quickly the level of exemption may be adjusted for i) a business that starts to share a meter or stops sharing a meter with another business and ii) a business that starts or stops making an ineligible product using electricity from an exempted meter; the expiry date for EII certificates; and the timing of quarterly reports from businesses.

Question 13

| Consultation Question | 31 Responses |
|---|--------------|
| Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion on the EII certificate should be based on the period of at least three months prior to application throughout which the meter was in use? If not, please explain why. | |
| Yes | 28 |
| No | 3 |
| Not answered | 27 |

Summary of stakeholder responses to consultation

67. 28 respondents agreed with the proposal, whilst 3 respondents disagreed.

68. Comments made in support of the proposal included:

- All businesses should be treated equally.
- This would help to ensure that businesses with new meters can access the exemption in a timely manner.

69. Respondents that did not support the proposal commented:

- Ineligible businesses already pay an unreasonable extra charge to offset lost revenues from those benefitting from the scheme; the burden of proof should be on those receiving the benefits.

- If the meter was not in use for a calendar year, there should be no exemption, as there was no consumption.
- There would be an issue with businesses with seasonality (although another respondent commented that the proposal was reasonable given the seasonal nature of electricity consumption).

Government response

70. We intend to implement the proposal set out in the consultation document so that existing businesses opening a new meter are treated equally and only have to wait three months to receive the exemption.

Question 14

Consultation Question

31 Responses

Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion should be reviewed on receipt of each quarterly report until it is based on a total of at least 12 months of available data? If not, please explain why.

| | |
|--------------|----|
| Yes | 31 |
| No | 0 |
| Not answered | 27 |

Summary of stakeholder responses to consultation

71. 31 respondents agreed with the proposal, whilst no respondents disagreed.

72. Comments made in support of the proposal were:

- This will give a better view of the overall business across the year.
- This mitigates the risks which could potentially be caused by allowing existing businesses to claim an exemption based on 3 months of data.

73. One respondent, whilst agreeing with the proposal, commented that more frequent reviews of the exemption proportion could result in additional manual changes in the system (for BEIS, suppliers and LCCC), likely requiring additional resource.

Government response

74. We intend to implement the proposal set out in the consultation document so that, where a meter is not in use for the entire preceding calendar year, the exemption proportion is updated each quarter until it is based on 12 months of data. Experience of operating the EII exemption schemes shows that there are only limited cases of a meter not being in use for the entire preceding calendar year, so we consider any additional administrative effort involved in implementing this proposal to be small.

Question 15

Consultation Question

30 Responses

Do you agree with the proposal that, where a business starts to share a meter or stops sharing a meter, the exemption proportion on the EII certificate should be based on the period of at least three months since the change in meter-sharing agreement? If not, please explain why.

| | |
|--------------|----|
| Yes | 26 |
| No | 4 |
| Not answered | 28 |

Summary of stakeholder responses to consultation

75. 26 respondents agreed with the proposal, whilst 4 respondents disagreed.

76. Comments in support included:

- This would help ensure that businesses are able to maintain their access to the exemption when their metering arrangements change.
- This approach would be consistent with the proposal above on installing a new meter.

77. Comments from the respondents who disagreed related to the principle of shared meters being able to benefit from an exemption, rather than the time period over which the exemption proportion should be calculated for a shared meter:

- A sub metering arrangement should be in place.

6. Improving operation of the exemption schemes

- If there is a shared meter the scheme should not apply as usage cannot be evidenced.
- Any business large enough to be of an energy intensive nature would have their own meter as they would already have to track the costs and energy used as part of current environmental and business requirements such as climate change agreements, CRC, EU ETS and ESOS audits.

78. One respondent commented, as for Question 14, on the potential for increased resource as a result of more frequent reviews.

Government response

79. We do not intend to change the principle that shared meters can benefit from the exemption, which was not the subject of this consultation. In these cases, the exemption proportion is calculated based on evidence of the electricity used by the eligible business for the specified activity.

80. On the question of the time period over which the exemption proportion is calculated, we intend to implement the proposal set out in the consultation document so that where there is a change in meter-sharing arrangements the exemption proportion is updated each quarter until it is based on 12 months of data. Experience of operating the EII exemption schemes shows that there are only limited cases of a change in meter-sharing arrangements, so we consider any additional administrative effort involved in implementing this proposal to be small.

Question 16

Consultation Question

31 Responses

Do you agree with the proposal that, where a business starts or stops making an ineligible product using electricity from a meter, the exemption proportion on the EII certificate should be based on the period of at least three months since the change in meter use? If not, please explain why.

| | |
|--------------|----|
| Yes | 28 |
| No | 3 |
| Not answered | 27 |

Summary of stakeholder responses to consultation

81. 28 respondents agreed with the proposal, whilst 3 respondents disagreed.

82. Comments in support included:

- This approach would be consistent with the proposals above for businesses with new meters or a change in shared metering.
- Three months seems a reasonable time to establish the change in energy use and ensure it is a valid change not a short-term blip in business.

83. Respondents that disagreed commented:

- There may be some development type work being undertaken during that period which could distort usage.
- It should be an annual review.
- Exemptions should start and stop when the NACE eligibility changes and paid on a pro-rata basis.

84. One respondent commented, as for Questions 14 and 15, on the potential for increased resource as a result of more frequent reviews.

Government response

85. We intend to implement the proposal set out in the consultation document. We acknowledge that the data in the initial period following the change may not be representative of use in the longer term. However, we consider that the proposal in the consultation document would result in a more accurate level of exemption than the status quo in which we make no change when the company starts or stops making an ineligible product until a new certificate is due. By updating the proportion every quarter, it should reflect any changes in use following the initial period more quickly than if there was only an annual review. Experience of operating the EII exemption schemes shows that there are only limited cases of this type of change, so we consider any additional administrative effort involved in implementing this proposal to be small.

Question 17

| Consultation Question | 31 Responses |
|--|--------------|
| Do you agree with the proposal that, for existing businesses, certificates should expire at the end of June or, where this would result in the certificate expiring after 6 months or less, the end of the following June? If not, please explain why. | |

| | |
|--------------|----|
| Yes | 29 |
| No | 2 |
| Not answered | 27 |

Summary of stakeholder responses to consultation

86. 29 respondents agreed with the proposal, whilst 2 respondents disagreed.

87. Comments in support included:

- This would give businesses and BEIS more time for the application process.
- This would help ease the administrative burden for suppliers of eligible customers as it would provide a longer period of time in which to expect to receive renewed certificates (particularly pertinent if the number of eligible customers were to increase with the introduction of a lower electricity intensity threshold).

88. Respondents that disagreed commented:

- 1 April is more suitable as in line with the tax year.
- The certificates should expire on a prorated annual basis.

89. Other comments related to the way in which the transition to the proposed new approach would work:

- Consideration needs to be given to the transition from a March expiry to a June expiry.
- The expiry date for existing certificates should not be changed as this would lead to increased administrative burden for suppliers and uncertainty among eligible businesses as to when to renew their certificate.

Government response

90. We intend to implement the proposal set out in the consultation document so that (other than for new businesses) certificates issued will expire at the end of June in order to mitigate the risk of EIs facing a gap in relief. We do not consider that there is any over-riding need to align the expiry of EI certificates with the start of the tax year. Experience of operating the exemption schemes during 2019 shows that we were able to issue all but a couple of new certificates before 31 March. However, we expect the timing to be significantly more challenging in those years where we are required to re-assess the eligibility of EIs in the scheme.

91. We also propose to amend the Regulations so that any existing certificate that would expire at the end of March will instead be valid until the end of June (unless revoked before then in line with the existing provisions on when certificates may be revoked such as failure to comply with reporting requirements).

Question 18

Consultation Question

30 Responses

Do you agree with the proposal that businesses must report to BEIS before the last working day in the months of March, June, September and December on whether they are still carrying out the 'specified activity' (i.e. making the eligible product) to which the certificate relates? If not, please explain why.

| | |
|--------------|----|
| Yes | 28 |
| No | 2 |
| Not answered | 28 |

Summary of stakeholder responses to consultation

92. 28 respondents agreed with the proposal, whilst 2 respondents disagreed. Comments in support included:

- The proposal increases flexibility.
- It makes sense for businesses to justify their need for the exemption on a quarterly basis, in the same way that the proposed changes to metering arrangements would require quarterly reporting.

93. Respondents that disagreed commented:

- The certificates should be issued annually and reviewed on this basis.
- Following application, a business should only notify when no longer making an eligible product.

Government response

94. We intend to implement the proposal broadly as set out in the consultation document and require businesses to send a report during each quarter (we no longer intend to specify any particular day). This is in line with the process we have followed for EII compensation schemes. We appreciate that there is an

administrative burden for businesses to report quarterly, but we consider this is a proportionate requirement to mitigate the risk of a business receiving an exemption to which it is not entitled.

Annex A: List of respondents

| | |
|---------------------------------------|------------------------------|
| ADS Group Ltd | Haven Power |
| AIC | lpackchem Ltd |
| Allied Glass Containers Ltd | Johnson Tiles |
| Ameresco Ltd | Kiveton Park Steel |
| Ardagh Glass | Mineral Products Association |
| Breedon Cement Ltd | nabim |
| Bridgnorth Aluminium | Northern Ireland Executive |
| British Ceramic Confederation | npower |
| British Glass | Ofgem |
| Bristol Energy | PFF Packaging Group |
| Castings Plc | Pilkington UK Ltd |
| Cast Metals Federation | Plastic Bottle Supplies Ltd |
| Centrica | SABIC UK Petrochemicals Ltd |
| Citizens Advice | Saint Gobain Glass (UK) |
| Civil and Marine Ltd | SIMEC (GFG Alliance) |
| Confederation of British Metalforming | Scotch Whisky Association |
| Confederation of Paper Industries | Scottish Power |
| EDF Energy | SmartestEnergy |
| EEF | Somic Textiles |
| Egger (UK) Ltd | SSE Business Energy |
| Electric Glass Fiber UK | SSE Energy Services |
| Energy Intensive Users Group | Stolzle Flaconnage Ltd |
| E.ON | Storengy UK |
| Eurac Poole Ltd | Total Gas & Power Ltd (TGP) |
| Food and Drink Federation | UK Steel |
| Gas Storage Operators Group | URENCO UK Ltd |
| GLW Feeds Ltd | Utilita |

Vodafone Ltd

Wall Colmonoy

Welsh Government

Wood Panel Industries Federation

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