



Carbon price floor: fossil fuels used in a combined heat and power station to generate good quality electricity consumed on-site

Who is likely to be affected?

Businesses and organisations owning or operating combined heat and power (CHP) plant.

General description of the measure

This measure excludes from the carbon price support rates (CPS rates) fossil fuels used in a CHP station to generate good quality electricity that is self-supplied or supplied under exemption from the requirement to hold an electricity supplier licence.

Policy objective

The carbon price floor (CPF) was introduced in Great Britain in 2013, introducing CPS rates of climate change levy (CCL) and fuel duty on fossil fuels used in electricity generation. These rates top up the EU Emissions Trading System carbon price in order to create a long-term price for carbon in Great Britain and provide certainty for businesses investing in low carbon electricity generation.

CHPs provide one of the most cost effective approaches for making carbon savings and play an important role in achieving the government's environmental ambitions. This measure mitigates the impact of the CPF on CHP operations and provides a targeted means of reducing the cost of electricity for manufacturing sites that are supplied by carbon efficient CHPs. The government is committed to meeting its environmental goals whilst taking careful account of the costs of policies to ensure it does not impose unnecessary burdens on business and households.

Background to the measure

CHP stations are a class of technology that enables the efficient use of fuel by producing both electricity and heat in a usable form from the same input of fuel. Where the efficiency of the combined production of heat and electricity exceeds certain thresholds the electricity generated is deemed to be good quality. The efficiency of CHP stations is monitored and certified by the CHP Quality Assurance (CHPQA) programme, operated by the Department of Energy and Climate Change.

Natural gas, liquid petroleum gas or solid fossil fuels used in electricity generation are liable to the CPS rates of CCL. For CCL purposes, a self-supply is deemed to occur when these commodities are burnt to generate electricity in a CHP that has a generating capacity of more than 2 megawatts, with the operator of the CHP being required to pay the relevant CPS rate of CCL on that supply.

Oils and bioblends used in electricity generation are liable to the CPS rates of fuel duty. Insofar as a CHP achieves the efficiency threshold set by the CHPQA, duty on fuel can be reclaimed. The amount reclaimable is reduced by the relevant CPS rate to the extent that the fuel is used to generate electricity.

The effect of current CCL and fuel duty legislation is therefore that all commodities used in a CHP station to produce heat, steam or mechanical power are excluded from the CPS rates. Budget 2014 announced that this exclusion would be extended to fossil fuels used in a CHP station to generate good quality electricity consumed on-site. Since then HM Revenue and Customs (HMRC) have been working with industry representatives on the definition of on-site and other details. The primary and secondary legislation was published in draft on 10 December 2014 along with explanatory material.

Detailed proposal

Operative date

This measure will apply to commodities liable to the CPS rate of CCL that are brought onto or arrive at the site of a CHP station on or after 1 April 2015; and to qualifying oils or bioblends used to generate electricity on or after 1 April 2015, irrespective of when that oil was supplied to the generator.

Current law

Schedule 6 to the Finance Act 2000 (Schedule 6) contains the CCL primary legislation. Paragraph 24(B) of Schedule 6 makes CPS rate commodities burned to generate electricity in a CHP station subject to a deemed self-supply. Paragraph 42A sets out the CPS rates applicable on such deemed self-supplies.

The Climate Change Levy (General) Regulations 2001 (SI 2001/838) (the general regulations) govern the administration of CCL. Regulation 51N and Schedule 3 set out how the proportion of fuel attributable to the generation of electricity is to be calculated.

The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (SI 2005/3320) (the 2005 regulations) enable generators who use oil to generate electricity to reclaim the fuel duty paid on the oil when it leaves the refinery. Regulation 10 sets out the amount that can be reclaimed in relation to a CHP.

Proposed revisions

Legislation will be introduced in Finance Bill 2015 to amend Schedule 6. Commodities liable to the CPS rates of CCL will be excluded from the scope of the deemed self-supply where these are used to generate good quality electricity which is self-supplied, or supplied under an exemption from the requirement to hold an electricity supplier licence under the Electricity Act 1989.

Two statutory instruments will be laid before Parliament to come into force on 1 April 2015:

- *The Climate Change Levy (General) (Amendment) Regulations 2015* will amend the general regulations to calculate the proportion of fuel that remains subject to a deemed supply for the purposes of the CPS rates of CCL.
- *The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendments for Carbon Price Support) Regulations 2015* will amend the 2005 regulations to adjust the amount of fuel duty that can be reclaimed by a CHP using oils.

Summary of impacts

Exchequer impact (£m)	2014-15	2015-16	2016-17	2017-18	2018-19
	-	- 65	- 70	- 75	- 80
	These figures were set out in Table 2.1 of Budget 2014 and have been certified by the Office for Budget Responsibility. More details can be found in the policy costings document published alongside Budget 2014.				
Economic impact	The measure is not expected to have any significant economic impacts.				
Impact on individuals, households and families	This measure is not expected to have an impact on family formation, stability or breakdown.				
Equalities impacts	This measure is not expected to have an impact on any equalities group.				
Impact on business including civil society organisations	<p>This measure is expected to have a negligible impact on businesses.</p> <p>There will be an initial one-off cost to businesses in familiarisation with the exclusion and understanding the on-site definition. There will be continuing costs in determining how much electricity generated is good quality although this is not a new requirement.</p> <p>The measure is likely to affect about 350 owners or operators of CHPs. Many small, fully exempt CHP stations which consume all the electricity they generate themselves are likely to be relieved in full from paying the CPS rates. Industrial scale plants which generate more electricity than they consume on-site will continue to have a liability to the CPS rates. Manufacturers, industrial operators and other consumers supplied by CHPs are expected to benefit from reduced electricity costs.</p> <p>This measure is expected to have no impact on civil society organisations.</p>				
Operational impact (£m) (HMRC or other)	There will be no significant operational impacts.				
Other impacts	<p><u>Carbon assessment:</u> this measure provides a targeted means of reducing the cost of electricity for manufacturing sites that are supplied by carbon efficient CHPs and in the longer term could have the effect of reducing carbon leakage.</p> <p><u>Small and micro business assessment:</u> this measure is expected to have no impact on small and micro businesses. It impacts on businesses and organisations owning or operating CHP plants.</p> <p>Other impacts have been considered and none have been identified.</p>				

Monitoring and evaluation

This measure will be kept under review through communication with affected taxpayer groups. The change will be monitored and reviewed as part of HMRC's normal assurance process.

Further advice

If you have any questions about this change, please contact Andy Jameson on 03000 586082 (email: andy.jameson@hmrc.gsi.gov.uk).

1 Combined heat and power stations

- (1) Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- (2) In paragraph 24B (deemed taxable supply: commodities to be used in combined heat and power station) –
 - (a) in sub-paragraph (2), at the end insert “to which sub-paragraph (2A) does not apply”,
 - (b) after that sub-paragraph insert –
 - “(2A) This sub-paragraph applies to electricity so far as –
 - (a) it is included in the CHP Qualifying Power Output of the combined heat and power station’s CHPQA scheme, and
 - (b) either Condition A or B is met.
 - (2B) Condition A is that the producer of the electricity makes no supply of it to another person, but causes it to be consumed in the United Kingdom.
 - (2C) Condition B is that the electricity is supplied (within the meaning of Part 1 of the Electricity Act 1989 (see section 64 of that Act)) by a person who is an exempt unlicensed electricity supplier.”,
 - (c) in sub-paragraph (3), after “electricity” insert “to which sub-paragraph (2A) does not apply”,
 - (d) for sub-paragraph (7) substitute –
 - “(7) For the purposes of this paragraph –

“CHP Qualifying Power Output” has the meaning given by section 4 of the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013), prepared by the Department of Energy and Climate Change or, if that issue of the Standard has been replaced by another issue, by the current issue of the Standard (taking account, in either case, of any amendment which has been made to the issue);

“CHPQA scheme”, in relation to a combined heat and power station, means the scheme in relation to which the station’s CHPQA certificate was issued;

“CHPQA site”, in relation to a fully exempt combined heat and power station or a partly exempt combined heat and power station, means the site of the CHPQA scheme.”
- (3) In paragraph 24C (initial determination under paragraph 24B(3) superseded by later determination), in sub-paragraph (1) –
 - (a) in paragraph (a), at the end insert “to which paragraph 24B(2A) does not apply”, and
 - (b) in paragraph (c)(i), after “electricity” insert “to which paragraph 24B(2A) does not apply”.
- (4) In paragraph 62 (tax credits), in sub-paragraph (1)(bb), after “electricity” (in both places it occurs) insert “to which paragraph 24B(2A) does not apply”.

- (5) The amendments made by this section have effect in relation to carbon price support rate commodities brought onto, or arriving at, a CHPQA site of a combined heat and power station in Great Britain on or after 1 April 2015.

EXPLANATORY NOTE

CLIMATE CHANGE LEVY: COMBINED HEAT AND POWER STATIONS

SUMMARY

1. Clause [X] amends Schedule 6 to the Finance Act 2000 so that operators of combined heat and power (CHP) stations do not pay the carbon price support (CPS) rates of climate change levy (CCL) on commodities used to generate good quality electricity used on-site. This applies to commodities that are brought onto or arrive at a CHP station after 1 April 2015.

DETAILS OF THE CLAUSE

2. Subsection (2) amends paragraph 24B of Schedule 6 so that operators of CHP stations are not deemed to have made a taxable supply of CPS rate commodities used to generate good quality electricity where certain conditions are met. These conditions are that the electricity is the product of good quality CHP and that it is either self-supplied or supplied under an exemption from the requirement for an electricity supplier licence under the Electricity Act 1989.

3. Subsection (3) makes consequential amendments to paragraph 24C of Schedule 6 which relates to corrections to the determination of the amount of CPS rate commodities subject to a deemed self-supply.

4. Subsection (4) makes a consequential amendment to paragraph 62 of Schedule 6 which relates to the claiming of tax credits.

5. Subsection (5) provides that these amendments apply in respect of CPS rate commodities brought onto, or arriving at, the site of a CHP on or after 1 April 2015.

BACKGROUND NOTE

6. The carbon price floor (CPF) was introduced in Great Britain in 2013, introducing CPS rates of CCL and fuel duty on fossil fuels used in electricity generation. These rates top up the EU Emissions Trading System carbon price in order to create a long-term price for carbon in Great Britain and provide certainty for businesses investing in low carbon electricity generation.

7. CHP stations are a class of technology that enables the efficient use of fuel by producing both electricity and heat in a usable form from the same input of fuel. Where the efficiency of the combined production of heat and electricity exceeds certain thresholds the electricity generated is deemed to be good quality. The efficiency of CHP stations is

monitored and certified by the CHP Quality Assurance (CHPQA) programme, operated by the Department of Energy and Climate Change.

8. Natural gas, liquid petroleum gas or solid fossil fuels used in electricity generation in Great Britain are liable to the CPS rates of CCL. CHP operators are deemed to have made a taxable supply to themselves when these CPS rate commodities are used to generate electricity in a CHP station that has a generating capacity of more than 2 megawatts. However, where the commodities are used to produce heat, steam or mechanical power, rather than electricity, no such self-supply occurs. A formula set out in regulations is used to determine the quantity of CPS rate commodities referable to the production of electricity.

9. Budget 2014 announced that from 1 April 2015 the Government would make the change set out in this clause so that the CPS rates of CCL do not become due where the above mentioned CPS rate commodities are used in a CHP station to generate good quality electricity consumed on-site. This mitigates the impact of the CPF on this carbon efficient form of heat and electricity generation and provides further support for UK manufacturing industry. Since Budget 2014, HM Revenue & Customs have worked with industry representatives on the definition of on-site and other details.

10. If you have any questions about this change, or comments on the legislation, please contact Andy Jameson on 03000 586082 (email: andy.jameson@hmrc.gsi.gov.uk).

STATUTORY INSTRUMENTS

2015 No.0000

CLIMATE CHANGE LEVY

**The Climate Change Levy (General) (Amendment) Regulations
2015**

<i>Made</i> - - - -	<i>March 2015</i>
<i>Laid before the House of Commons</i>	<i>March 2015</i>
<i>Coming into force</i> - -	<i>1st April 2015</i>

The Commissioners for Her Majesty's Revenue and Customs(a) make the following Regulations in exercise of the powers conferred by paragraphs 22, 24B(3), 24D, 62(1)(bb) and 146(7) of Schedule 6 to the Finance Act 2000(b) :

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Climate Change Levy (General) (Amendment) Regulations 2015 and come into force on 1st April 2015.

(2) They have effect in relation to carbon price support rate commodities brought onto, or arriving at, a CHPQA site of a combined heat and power station in Great Britain on or after that date.

Amendments to the Climate Change Levy (General) Regulations 2001

2. The Climate Change Levy (General) Regulations 2001(c) are amended as follows.

3. In regulation 11 (other tax credits: entitlement)—

- (a) in sub-paragraph (1)(bb), after “electricity” (in both places it occurs) insert “to which paragraph 24B(2A)(d) of the Act does not apply”;
- (b) in sub-paragraph (2)(ab), after “electricity” insert “to which paragraph 24B(2A) of the Act does not apply”.

4. In regulation 51A (interpretation of part 4(A))—

- (a) for the definition of “CHPQA” substitute—

(a) The regulations made under the powers cited are to be made by the Commissioners; paragraph 147 of Schedule 6 to the Finance Act 2000 (c. 17) defines “the Commissioners” as meaning the Commissioners of Customs and Excise. Section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) provides that a reference in any enactment to the Commissioners of Customs and Excise shall be taken as a reference to the Commissioners for Her Majesty's Revenue and Customs.

(b) 2000 c. 17; paragraphs 24B, 24D and 62(1) (bb) were inserted by the Finance Act 2013 (c. 29), Schedule 42, paragraphs 10 and 16. Paragraphs 24B and 62(1)(bb) have been amended by section [] of the Finance Act 2015 (c.).

(c) S.I. 2001/838; relevant amending instruments are S.I. 2003/604, 2005/1716, 2012/3049, 2013/713, 2013/1716.

(d) Section 24B(2A) was inserted by section [] of the Finance Act 2015 (c.).

““CHPQA” refers to the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013) prepared by the Department of Energy and Climate Change (“the CHPQA Standard”);”

- (b) omit the definition of “QPO”;
- (c) in the definition of “QPO electricity”, after those words insert “means qualifying power output electricity and”.

5. In Schedule 3 (fuels referable to the production of electricity in a combined heat and power station)—

- (a) in paragraph 1 (interpretation)—
 - (i) after “CHP Qualifying Heat Output” insert “CHP Qualifying Power Output”;
 - (ii) at the end insert—
 - “non-qualifying electricity” means electricity to which paragraph 24B(2A) of the Act does not apply;
 - “qualifying electricity” means electricity to which paragraph 24B(2A) of the Act applies.”.
- (b) in paragraph 2 (calculation of fuels referable to the production of electricity)—
 - (i) in sub-paragraph (1), for “to (4)” substitute “(3) and (4)”;
 - (ii) in sub-paragraph (2), in the definition of “MO” for “power” substitute “energy”;
 - (iii) after sub-paragraph (2) insert—

“(2A) Sub-paragraphs (2B) to (2E) apply, instead of sub-paragraphs (3) and (4), in relation to carbon price support rate commodities brought onto, or arriving at, a CHPQA site on or after 1st April 2015.

(2B) The extent to which a quantity of a carbon price support rate commodity is referable to the production of non-qualifying electricity in a combined heat and power station is to be determined in accordance with sub-paragraphs (2C) to (2E).

(2C) Calculate the total quantity of input fuels referable to the production of non-qualifying electricity in accordance with the following formula—

$$Q \times \left(1 - \frac{ES}{TPO - MO} \right)$$

Where—

Q is the quantity of input fuels referable to the production of electricity calculated in accordance with sub-paragraph (2);

ES (which must not exceed the QPO) is the amount of qualifying electricity in MWh generated by the station in the annual operation to which the current CHPQA certificate relating to the station applies at the time the quantity of carbon price support rate commodity is brought onto, or arrives at, the CHPQA site;

QPO is the CHP Qualifying Power Output for the station specified on the current CHPQA certificate relating to the station at the time the quantity of carbon price support rate commodity is brought onto, or arrives at, the CHPQA site;

TPO and MO have the meaning given in sub-paragraph (2).

(2D) Calculate the percentage of input fuels referable to the production of non-qualifying electricity in accordance with the following formula—

$$\left(\frac{R}{TFI} \right) \times 100$$

Where—

R is the quantity of input fuels referable to non-qualifying electricity calculated in accordance with sub-paragraph (2C);

TFI has the meaning given in sub-paragraph (2).

(2E) Apply the percentage calculated in accordance with sub-paragraph (2D) to the quantity of carbon price support rate commodities brought onto, or arriving at, the CHPQA site.”.

6. In paragraph 4(1) and (2) after “CHP Qualifying Heat Output,” insert “the CHP Qualifying Power Output, the qualifying electricity,”.

7. In paragraph 5(b) after “CHP Qualifying Heat Output,” insert “CHP Qualifying Power Output, qualifying electricity,”.

xx March 2015

Two of the Commissioners for Her Majesty’s Revenue and Customs

name

name

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section [] of the Finance Act 2015 (c.) amended Schedule 6 to the Finance Act 2000 (c.17) to provide that, with effect from 1st April 2015, the carbon price support rates of climate change levy do not apply to carbon price support rate commodities used to generate electricity that is included in the CHP Qualifying Power Output of a combined heat and power station’s CHPQA scheme and is either self-supplied or supplied by a person who is an exempt unlicensed electricity supplier.

As a consequence of those amendments, these Regulations amend the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) to provide the formula for calculating the quantity of carbon price support rate commodities used to generate electricity in a combined heat and power station that are subject to the carbon price support rates of climate change levy; and they make other consequential amendments.

A Tax Information and Impact Note (TIIN) covering this instrument was published on 10th December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

EXPLANATORY MEMORANDUM TO

The Climate Change Levy (General) (Amendment) Regulations 2015

2015 No. [XXXX]

- 1.** This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

- 2. Purpose of the instrument**

2.1 This instrument amends the Climate Change Levy (General) Regulations 2001 (SI 2001/838) (the principal regulations). The amendment inserts a new formula to determine the quantity of carbon price support (CPS) rate commodities that are liable to the CPS rates of climate change levy (CCL) which are consumed in good quality combined heat and power (CHP) stations and referable to the production of electricity (other than electricity that is either self-supplied or supplied under an exemption from the requirement for an electricity supplier licence). The instrument also makes some consequential amendments.

- 3. Matters of special interest to the Select Committee on Statutory Instruments**

3.1 It has not been possible to comply with the 21 day rule. This is because the instrument has to come into force on 1 April 2015 but it could not be made and laid until the amendment made to paragraph 24B of Schedule 6 to the Finance Act 2000 by section [] of the Finance Act 2015 (c.) had received Royal Assent.

- 4. Legislative Context**

4.1 Section [] of the Finance Act 2015 amended paragraph 24B of Schedule 6 to the Finance Act 2000 to the effect that the operator of a CHP station is not deemed to have made a taxable supply to himself in respect of CPS rate commodities where these are used to generate good quality electricity that is either self-supplied or supplied under an exemption from the requirement for an electricity supplier licence under the Electricity Act 1989.

4.2 Paragraphs 24B(3) and 24D of Schedule 6 (as inserted by the Finance Act 2013 (c. 29)) provide that the Commissioners may make regulations to determine whether a deemed self-supply of CPS rate commodities has been made for the purposes of paragraph 24B(2) and to determine the quantity of any commodity which is the subject of such a deemed supply.

- 5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 CHP stations are a class of technology that enables the efficient use of fuel by producing both electricity and heat in a usable form from the same input of fuel. Where the energy efficiency and environmental performance of the combined production of heat and electricity meet or exceed certain thresholds set and certified by the Department of Energy and Climate Change under its CHP Quality Assurance Standard, the electricity generated is deemed to be good quality.

7.2 Natural gas, liquid petroleum gas and solid fossil fuels used in electricity generation in Great Britain are liable to the CPS rates of CCL, part of the carbon price floor (CPF) introduced throughout Great Britain in April 2013. For CCL purposes, a self-supply is deemed to occur when these CPS rate commodities are used to generate electricity in a CHP station that has a generating capacity of more than 2 megawatts, with the operator of the CHP station being required to pay the relevant CPS rate of CCL on that supply. The operator of a CHP station is deemed to have made a taxable self-supply to himself where these commodities are determined to be referable to the production of electricity, rather than to heat, steam or mechanical power.

7.3 The effect of current CCL legislation is, therefore, that all taxable commodities used in a CHP station to produce heat, steam or mechanical power are excluded from the CPS rates. Budget 2014 announced that this exclusion would be extended to CPS rate commodities used in a CHP station to generate good quality electricity consumed on-site. This mitigates the impact of the CPS rates of CCL on this carbon efficient form of heat and electricity generation and provides further support for UK manufacturing industry.

7.4 This instrument amends the principal regulations so that, with effect from 1 April 2015, the formula in Schedule 3 determines the quantity of CPS rate commodities that are used in a CHP station to generate electricity that is not good quality electricity used on-site. For the purposes of the compulsory review of the calculations required under the Schedule, the current formula for determining the quantity of CPS rate commodities referable to the production of electricity will continue to apply for the period 1 January 2015 to 31 March 2015 after the coming into force of these Regulations.

- ***Consolidation***

7.5 There is no present intention to consolidate the amendments that have been made to the principal regulations.

8. Consultation outcome

8.1 This policy was announced at Budget 2014 and since then HMRC have worked with industry representatives on the definition of on-site and other details.

9. Guidance

9.1 Public notices on the CPF and CCL will be amended as appropriate.

10. Impact

10.1 The impact on business, charities or voluntary bodies is not expected to be significant and this measure will only impact on businesses. For those businesses that own or operate CHP stations and businesses that receive on-site electricity from them, this measure will provide a benefit.

10.2 The impact on the public sector is negligible.

10.3 A Tax Information and Impact Note (TIIN) covering this instrument was published on 10 December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument is available on the Government website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins> It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small businesses to the extent that they own or operate CHP stations.

11.2 No special approach has been taken to minimise the impact of the requirements on firms employing up to 20 people.

12. Monitoring & review

12.1 This measure will be kept under review through communication with affected taxpayer groups. The change will be monitored and reviewed as part of HMRC's normal assurance process.

13. Contact

Andy Jameson at HMRC Tel: 03000 586082 email: andy.jameson@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

STATUTORY INSTRUMENTS

2015 No. 0000

EXCISE

**The Hydrocarbon Oil Duties (Reliefs for Electricity Generation)
(Amendments for Carbon Price Support) Regulations 2015**

<i>Made</i> - - - -	<i>xx March 2015</i>
<i>Laid before Parliament</i>	<i>xx March 2015</i>
<i>Coming into force</i> - -	<i>1st April 2015</i>

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 20AA(1)(a) and (2) of the Hydrocarbon Oil Duties Act 1979(a):

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendments for Carbon Price Support) Regulations 2015 and come into force on 1st April 2015.

(2) They have effect in relation to qualifying oil or qualifying bioblend used in a combined heat and power station in Great Britain on or after that date.

Amendments to the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005

2. The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005(b) are amended as follows.

3. In regulation 9 (application and interpretation of part 4), in paragraph (2)—

(a) 1979 c. 5; section 20AA was inserted by the Finance Act 1989 (c. 26), section 2(1) and has been amended by the Finance Act 1993 (c. 34), Schedule 23, Part 1(4); the Finance Act 1994 (c. 9), Schedule 4, Part 3, paragraphs 49 and 54; the Finance Act 2000 (c. 17), section 10(3) and the Finance Act 2008 (c. 9), Schedule 5, paragraph 17 and Schedule 6, paragraphs 24 and 30. Section 20AA provides that the Commissioners may make regulations allowing reliefs as regards any duty of excise which has been charged in respect of "hydrocarbon oil"; section 6AC (inserted by the Finance Act 2002 (c. 23), section 5(4)) provides that the Commissioners may by regulations provide for references in the Hydrocarbon Oil Duties Act 1979 to hydrocarbon oil to be construed as including references to biodiesel and bioblend and for references to duty on hydrocarbon oil to be construed as including references to duty under sections 6AA and 6AB (inserted by the Finance Act 2002 (c. 23). Regulation 3(1), (2) and (4) of the Biofuels and Other Fuel Substitutes (Payment of Excise Duties etc) Regulations 2004 (S.I. 2004/2065) (as amended by S.I. 2008/753) provides that references to hydrocarbon oil and to the duty on hydrocarbon oil in section 20AA(1)(a) are to be construed as including references to biodiesel and bioblend and to the duty on biodiesel and bioblend. The power to make regulations under section 20AA is conferred on "the Commissioners" and, by virtue of section 27(3) "the Commissioners" has the same meaning as given in the Customs and Excise Management Act 1979 (c. 2). Section 1(1) of that Act (as amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), Schedule 4, paragraphs 20 and 22(b)) defines "the Commissioners" as "the Commissioners for Her Majesty's Revenue and Customs".

(b) S.I. 2005/3320, amended by 2007/2191, 2008/753, 2013/657 and 2014/713.

- (a) after “Part” insert “and Schedule 3”;
- (b) before the definition of “CHPQA” insert—
 - “(ba) “CHP Qualifying Heat Output”, “CHP Qualifying Power Output”, “CHP Total Fuel Input” and “CHP Total Power Output” have the meaning given in section 4 of the CHPQA;”;
- (c) for the definition of “CHPQA” substitute—
 - “(c) “CHPQA” refers to the Combined Heat and Power Quality Assurance Standard, Issue 5 (November 2013), prepared by the Department of Energy and Climate Change (“the CHPQA Standard”);”;
- (d) after the definition of “CHPQA certificate” insert—
 - “(da) “non-qualifying electricity” means electricity to which paragraph 24B(2A) of Schedule 6 to the Finance Act 2000(a) does not apply;
 - (db) “qualifying electricity” means electricity to which paragraph 24B(2A) of Schedule 6 to the Finance Act 2000 applies.”.

4. In regulation 10 (amount of relief)—

- (a) in paragraph (1), for “paragraph (4)” substitute “paragraphs (4) and (7)”;
- (b) after paragraph (3) insert—
 - “(3A) Paragraphs (4) and (5) apply to qualifying oil or qualifying bioblend used to produce outputs of the station before 1st April 2015.”;
- (c) after paragraph (5) insert—
 - “(6) Paragraphs (7) and (8) apply to qualifying oil or qualifying bioblend used to produce outputs of the station on or after 1st April 2015.
 - (7) Where a quantity of the qualifying oil or qualifying bioblend used to produce outputs of the station is referable to the production of non-qualifying electricity in the relevant annual operation, the amount of relief allowed under paragraphs (1) and (2) is the amount of duty that has been charged and paid on the quantity that is so referable less the relevant amount specified in Schedule 2 (carbon price support rates).
 - (8) For the purposes of paragraph (7), the quantity of qualifying oil or qualifying bioblend that is referable to the production of non-qualifying electricity is such quantity as is determined in accordance with Schedule 3.”.

5. After Schedule 2 insert—

“SCHEDULE 3

Regulation 10(8)

FUELS REFERABLE TO THE PRODUCTION OF NON-QUALIFYING ELECTRICITY IN A COMBINED HEAT AND POWER STATION

- 1.** The extent to which a quantity of qualifying oil or qualifying bioblend (“input fuels”) is referable to the production of non-qualifying electricity in a combined heat and power station is to be determined in accordance with paragraphs 2 to 5.
- 2.** Calculate the total quantity of input fuels referable to the production of electricity in accordance with the following formula—

(a) 2000 c. 17; paragraph 24B was inserted by the Finance Act 2013 (c. 29), Schedule 42, paragraph 10 and was amended by the Finance Act 2015 (c.), section [].

$$\left(TFI - \frac{QHO}{\eta h, ref} \right) \times \left(1 - \frac{MO}{TPO} \right)$$

Where—

TFI is the CHP Total Fuel Input for the station specified on the CHPQA certificate relating to the relevant annual operation.

QHO is the CHP Qualifying Heat Output for the station specified on the CHPQA certificate relating to the relevant annual operation.

$\eta h, ref$ is the reference boiler heat efficiency, taken here to be 81%.

MO is Mechanical Output, which is the amount which is the amount of energy in megawatt-hours (electrical) (MWh) generated by the station in the relevant annual operation that is used to drive a mechanical load (such as a pump, fan or compressor) through direct coupling, without the use of electricity.

TPO is the CHP Total Power Output for the station specified on the CHPQA certificate relating to the relevant annual operation.

3. Calculate the total quantity of input fuels referable to the production of non-qualifying electricity in accordance with the following formula—

$$Q \times \left(1 - \frac{ES}{TPO - MO} \right)$$

Where—

Q is the quantity of input fuels referable to the production of electricity calculated in accordance with paragraph 2.

ES (which must not exceed the QPO) is the amount of qualifying electricity in megawatt-hours generated by the station in the relevant annual operation.

QPO is the CHP Qualifying Power Output for the station specified on the CHPQA certificate relating to the relevant annual operation.

TPO and MO have the meaning given in paragraph 2.

4. Calculate the percentage of input fuels referable to the production of non-qualifying electricity in accordance with the following formula—

$$\left(\frac{R}{TFI} \right) \times 100$$

Where—

R is the quantity of input fuels referable to non-qualifying electricity calculated in accordance with paragraph 2.

TFI has the meaning given in paragraph 2.

5. Apply the percentage calculated in accordance with paragraph 3 to the quantity of input fuels used to generate outputs of the station.”.

name
name

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (S.I. 2005/3320) (“the principal Regulations”).

The principal Regulations provide for a relief from excise duty for rebated oils and bioblends used to generate electricity (“input fuels”). Except in the case of a claim for relief for input fuels used to generate electricity in a generating station, or the outputs of a combined heat and power station, situated in Northern Ireland, the amount of relief is reduced by the carbon price support rates specified in Schedule 2 of the principal Regulations.

These Regulations amend the principal Regulations so that, in relation to input fuels used to generate the outputs of a combined heat and power station on or after 1st April 2015, the carbon price support rates specified in Schedule 2 only apply to input fuels that are referable to the production of non-qualifying electricity. “Non-qualifying electricity” is electricity to which paragraph 24B(2A) of Schedule 6 to the Finance Act 2000 (c.17) does not apply.

Regulation 5 inserts a new Schedule 3 into the principal Regulations to provide the method for determining the quantity of input fuels that are referable to the production of non-qualifying electricity.

A Tax Information and Impact Note (TIIN) covering this instrument was published on 10th December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument and is available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.

EXPLANATORY MEMORANDUM TO
THE HYDROCARBON OIL DUTIES (RELIEFS FOR ELECTRICITY GENERATION)
(AMENDMENTS FOR CARBON PRICE SUPPORT) REGULATIONS 2015

2015 No. [XXXX]

1. This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (S.I. 2005/3320) ("the principal Regulations").

2.2 The principal Regulations provide for a relief from excise duty for rebated oils and bioblends used to generate electricity ("input fuels"). Except in the case of a claim for relief for input fuels used to generate electricity in a generating station, or the outputs of a combined heat and power station, situated in Northern Ireland, the amount of relief is reduced by the carbon price support rates specified in Schedule 2 of the principal Regulations.

2.3 These Regulations amend the principal Regulations so that, in relation to input fuels used to generate the outputs of a combined heat and power station on or after 1st April 2015, the carbon price support rates specified in Schedule 2 only apply to input fuels that are referable to the production of non-qualifying electricity (see paragraph 4.2 below).

3. Matters of special interest to the Joint Committee on Statutory Instruments

[None].

4. Legislative Context

4.1 Paragraph 24B of Schedule 6 to the Finance Act 2000 (c. 17) (as inserted by the Finance Act 2013 (c. 29)) provides for carbon price support (CPS) rates of climate change levy (CCL) to be charged on fossil fuels (other than oils) that are referable to the production of electricity in a combined heat and power (CHP) station situated in Great Britain. In relation to oils and bioblends, the CPS rates of fuel duty were introduced by amending the principal Regulations to reduce the amount of relief that can be claimed under those Regulations.

4.2 The Finance Act 2015 (c.) amended paragraph 24B of the Finance Act 2000 so that the CPS rates of CCL are only charged on fossil fuels used to generate "non-qualifying" electricity in a CHP station. "Non-qualifying" electricity is electricity to which subparagraph (2A) of paragraph 24B does not apply.

4.3 In relation to oils and bioblends, these Regulations amend the principal Regulations so that, in respect of electricity produced in a CHP station in Great Britain, the CPS rates of fuel duty only apply to oils and bioblends that are referable to the production of non-qualifying electricity.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why?

7.1 CHP stations are a class of technology that enables the efficient use of fuel by producing both electricity and heat in a usable form from the same input of fuel. Where the efficiency of the combined production of heat and electricity exceeds certain thresholds the electricity generated is deemed to be good quality. The efficiency of CHP stations is monitored and certified by the CHP Quality Assurance (CHPQA) programme, operated by the Department of Energy and Climate Change.

7.2 Natural gas, liquid petroleum gas or solid fossil fuels used in electricity generation are liable to the CPS rates of CCL. For CCL purposes, a self-supply is deemed to occur when these commodities are burnt to generate electricity in a CHP that has a generating capacity of more than 2 megawatts, with the operator of the CHP being required to pay the relevant CPS rate of CCL on that supply.

7.3 Oils and bioblends used in electricity generation are liable to the CPS rates of fuel duty. Insofar as a CHP achieves the efficiency threshold set by the CHPQA, duty on fuel can be reclaimed.

7.4 The amount reclaimable is reduced by the relevant CPS rate to the extent that the fuel is used to generate electricity

• Consolidation

7.5 There are currently no plans to consolidate the amendments made to the principal Regulations.

8. Consultation outcome

9. Guidance

The Public Notice 175 (Motor and heating fuels – relief from Excise Duty: oils used to generate electricity), available on www.gov.uk will be revised to reflect the change.

10. Impact

10.1 The impact on business is negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note (TIIN) covering this instrument was published on 10th December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument and is available on the Government website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>
It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring & review

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

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