

2003 No. 604

CLIMATE CHANGE LEVY

**The Climate Change Levy (General) (Amendment) Regulations
2003**

<i>Made</i> - - - -	<i>11th March 2003</i>
<i>Laid before the House of Commons</i>	<i>11th March 2003</i>
<i>Coming into force</i> - -	<i>1st April 2003</i>

The Commissioners of Customs and Excise, in exercise of the powers conferred on them by section 30 of and Schedule 6 paragraphs 19, 20A, 22, 41, 125, 146 and 149A to the Finance Act 2000(a), hereby make the following Regulations:

1. These Regulations may be cited as the Climate Change Levy (General) (Amendment) Regulations 2003 and come into force on 1 April 2003.

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

3. In regulation 2(1), substitute “the Schedules” for “the Schedule” and omit the expression ““Schedule” refers to the Schedule to these Regulations;”.

4. In regulations 5(1)(b), 8(g), 12(1), 12(2), 27(3)(b), 33, 34(3), 35(3), 36(3), 38(1), 38(3), 39(2), 43(4), 59(2)(b) and 60(1)(h), substitute “Schedule 1” for each reference to “the Schedule” or “The Schedule”.

5. In regulation 6A in the meaning given for “transitional accounting period”, substitute “first current accounting year” for “first accounting year”.

6. In regulations 6D(2)(a) and 6E(1)(e), substitute “transitional accounting period” for “transitional period”.

7. In regulation 6E(1)(d), insert “accounting period” immediately after “transitional”.

8. Insert after regulation 8(c)—

“(ca) any record required by or under Part IV(A) (combined heat and power stations);”.

9. Renumber regulation 46(1) as regulation 46 and insert after the meaning given for “exempt renewable supplies”—

““MWh” is an abbreviation for megawatt-hour;

“relevant Authority” refers to the Gas and Electricity Markets Authority or, in relation to electricity produced or supplied in Northern Ireland or produced in the Republic of Ireland, the Director General of Electricity Supply for Northern Ireland;”.

(a) 2000 c. 17; paragraph 147 of Schedule 6 to the Finance Act 2000 provides that in that Schedule “the Commissioners” means the Commissioners of Customs and Excise. Paragraphs 20A and 149A inserted respectively by section 123 and section 124 of the Finance Act 2002 (c. 23).

(b) S.I. 2001/838; amended by S.I. 2002/1152.

- 10.** Omit regulations 46(2), 46(3) and 46(4).
- 11.** In regulation 47(2)—
- (a) insert immediately before the meaning given for “declared net capacity”—
- ““biomass” means fuel used in a generating station of which at least 98 per cent. of the energy content is derived from plant or animal matter, or substances derived directly or indirectly therefrom (whether or not such matter or substances are waste) and includes agricultural, forestry or wood wastes or residues, sewage and energy crops (provided that such plant or animal matter is not or is not derived directly from or indirectly from fossil fuel);”;
- (b) in the meaning given for “renewable sources”—
- (i) insert “peat,” immediately after “other than”;
- (ii) insert “(a) biomass, and (b)” between “includes” and “waste”.
- 12.** In regulations 47(3) and 47(9), insert “biomass or” immediately before each use of the word “waste”.
- 13.** Insert after regulation 47(5)—
- “(5A) Where the renewable sources used to fuel a generating station includes biomass (whether or not the generating station is fuelled by biomass in combination with other renewable sources or fossil fuel) paragraph (9) applies in order to calculate the amount of renewable source electricity which is to be regarded as generated from that biomass in any period specified by the relevant Authority.”.
- 14.** Omit regulation 47(14).
- 15.** Insert after regulation 48(1)—
- “(1A) The relevant Authority must only issue a levy exemption certificate on the basis of the most accurate figures for electricity produced in a generating station that the person who generates that electricity makes known to the Authority.
- (1B) The relevant Authority must disregard any figures that are made known to it or of which it becomes aware after the end of the second month following the end of the month in which the electricity is produced.”.
- 16.** Insert after regulation 48(3)—
- “(4) The relevant Authority need not issue a Renewables LEC as respects a quantity of electricity less than 1 MWh.
- However the relevant Authority may aggregate or disaggregate such quantities relating to the same generating station, certifying each complete MWh as appropriate.
- (5) The relevant Authority need not issue a Renewables LEC unless it is satisfied that the Renewables LEC, if issued, would represent electricity consumed or to be consumed in the United Kingdom.
- For this purpose, the relevant Authority may have regard in particular to whether any part of that electricity is or may be allocated by the operator of the generating station or a supplier for consumption outside the United Kingdom.
- (6) A Renewables LEC must be regarded for all purposes of this Part as only relating to the actual electricity in relation to which it was issued.”.
- 17.** Substitute for “the relevant levy exemption certificates” in regulations 49(4)(a)(iii) and 49(4)(b)(iii) the expression “any relevant Renewables LEC (and, if different from the relevant recipient, the identity of any person to whom entitlement to that Renewables LEC is transferred)”.
- 18.** Substitute “Renewables LEC” for “LEC” in regulations 48(2), 48(3), 49(1) and 49(3).
- 19.** Insert after Part IV—

“PART IV(A)

Combined heat and power stations

Interpretation of Part IV(A)

51A. For the purposes of this Part and Schedule 2–

“authorised person” (except for the purposes of Schedule 2, paragraph 7(a)) refers to a person authorised by the relevant Authority;

“CHP declaration contract” refers to the contract mentioned in paragraph 20A(1)(b) of the Act(c);

“CHP Relief Condition” refers to paragraphs 2 to 7 and paragraph 12 of Schedule 2;

“exemption certificate” refers to a full-exemption certificate or a part-exemption certificate (see paragraphs 148(2) and 148(3) of the Act and the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001(d));

“fully exempt CHP” refers to a fully exempt combined heat and power station (see paragraph 148(2) of the Act);

“indirect supplies” refers to supplies in relation to which provision is made by paragraph 20A(1) of the Act (exemption for supply made by electricity utility of CHP electricity)(e);

“MWh” is an abbreviation for megawatt-hour;

“operator” refers to the person who operates a station(f) or who generates or produces electricity in that station;

“outputs” or “output” refers to the meaning given by paragraph 148(9) of the Act (electricity or motive power produced in a station, and (a) heat or steam, or (b) air, or water, that has been heated or cooled);

“partly exempt CHP” refers to a partly exempt combined heat and power station (see paragraph 148(3) of the Act);

“QPO” means qualifying power output(g);

“QPO electricity” refers to electricity that–

(a) has been produced in a fully exempt CHP;

(b) has been produced in a partly exempt CHP and supplied from it without causing the limit referred to in paragraph 16(2) of the Act(h) to be exceeded;

“station” refers to a fully or partly exempt CHP;

“relevant Authority” refers to the Gas and Electricity Markets Authority or, in relation to electricity produced or supplied in Northern Ireland or produced in the Republic of Ireland, the Director General of Electricity Supply for Northern Ireland.

Certification of electricity produced in a combined heat and power station

51B.—(1) The relevant Authority may certify that a given MWh of electricity is QPO electricity.

(2) The relevant Authority must only certify on the basis of the most accurate figures for electricity produced in an individual station that the station’s operator makes known to the Authority.

(c) Regulation 2(1) of S.I. 2001/838, which these Regulations amend, provides that “the Act” refers to Schedule 6 to the Finance Act 2000.

(d) S.I. 2001/486.

(e) Paragraph 20A (and paragraph 20B) inserted by section 123 of the Finance Act 2002 (c. 23).

(f) See S.I. 2001/486.

(g) See S.I. 2001/1140.

(h) See S.I. 2001/1140 regulation 5(2) (specified limit above which supplies of electricity from partly exempt CHP not exempt).

(3) The relevant Authority must disregard any figures that are made known to it or of which it becomes aware after the end of the second month following the end of the month in which the electricity is produced.

(4) Paragraph (3) does not apply to regulation 51D, regulation 51E or Schedule 2 paragraph 11 (wrongly certified electricity and periodic reconciliation).

(5) The station's operator must only make known figures for the purposes of paragraph (2) that are made in accordance with the metering requirements of CHPQA Guidance Note 15 Version 1, published by the Department for Environment, Food and Rural Affairs(i).

(6) The relevant Authority must for the purposes of paragraphs (1) and (2)–

- (a) regard electricity production in a station as being referable to the calendar year in which the electricity is produced, and
- (b) regard the production of any of that electricity that constitutes QPO electricity as being spread evenly throughout that calendar year.

(7) The relevant Authority must not certify any electricity produced in a station when no exemption certificate is in force for that station.

(8) Where the relevant Authority certifies under paragraph (1), it must issue a levy exemption certificate (“CHP LEC”) as respects that electricity.

(9) A CHP LEC must be regarded for all purposes of this Part and Schedule 2 as only relating to the actual electricity in relation to which it was issued.

(10) Each CHP LEC must carry a unique identifying reference.

51C.—(1) The relevant Authority must neither certify electricity nor issue a CHP LEC as respects any electricity under any of the following circumstances.

(2) The first circumstance is where the quantity of electricity in question is less than 1 MWh.

However the relevant Authority may aggregate or disaggregate such quantities relating to the same station, certifying each complete MWh as appropriate.

(3) The second circumstance is where the relevant Authority is not satisfied that the CHP LEC, if issued, would represent electricity consumed or to be consumed in the United Kingdom.

For this purpose, the relevant Authority may have regard in particular to whether any part of that electricity is or may be allocated by the operator or a supplier for consumption outside the United Kingdom.

(4) The third circumstance is any one or more of the following–

- (a) the operator not providing the relevant Authority with such information, particulars, records and declarations as the relevant Authority may require for the purposes of this Part or Schedule 2;
- (b) the operator not providing the relevant Authority with any updated readings the relevant Authority may require from any relevant electricity meter;
- (c) any authorised person not being granted, on request, access at any reasonable time to the station in question;
- (d) any authorised person not being permitted, on request and having been granted access to the station–
 - (i) to inspect or test anything that is at the station and connected with the production or supply of any relevant electricity, and
 - (ii) to inspect any records that are at that station and so connected;
- (e) any authorised person not, on request, being granted access to any premises at any reasonable time to take updated readings from any relevant electricity meter;

(i) Version 1 posted on 31 January 2003 and available at <http://www.chpqa.com>. The metering requirements are in GN 15.7.

- (f) the operator having been notified of an assessment to a civil penalty or to penalty interest in relation to an event subject to this Part or Schedule 2 and, irrespective of any relevant review or appeal, that amount being unrecovered (for assessments, see paragraphs 106 and 111 of the Act; for review and appeal, see Part XI of the Act);
- (g) any one or more of sub-paragraphs (a) to (e) not being satisfied within such time as the relevant Authority considers reasonable for the purpose in question;
- (h) the relevant Authority for any reason not being satisfied that the electricity in question should be certified as QPO electricity.

51D.—(1) If the relevant Authority becomes aware that it has issued a CHP LEC in relation to—

- (a) production when no exemption certificate was in force for the relevant station, or
- (b) production in relation to which there is a breach of regulation 51B(5) (metering standards),

it shall as soon as practicable both restrict the validity of that CHP LEC to indirect supplies (see regulations 51I to 51M) and notify that restriction to the person to whom it was issued (see regulation 51B(8)).

(2) A CHP LEC so restricted is referred to in the remainder of this Part and in Schedule 2 as a “restricted CHP LEC” and any other CHP LEC is referred to as an “unrestricted CHP LEC” (but see also Schedule 2 paragraphs 8(3), 11(5) and 13(2)).

51E.—(1) The relevant Authority shall, in carrying out its functions under this Part, have regard to the proper administration of CCL(j).

(2) The relevant Authority shall in particular, and as appropriate, act in accordance with and have regard to Schedule 2 paragraphs 8, 10 and 11.

(3) The relevant Authority must keep a record of each CHP LEC for 6 years from the date of issue.

The record must show the person to whom it was issued, whether the CHP LEC is unrestricted or restricted, and any indirect supply of the electricity to which the CHP LEC is relevant (see regulation 51J(3)) .

CCL treatment dependent on certification

51F. Electricity shall not be regarded as QPO electricity for the purposes of regulation 4(1)(a) of the Climate Change Levy (Electricity and Gas) Regulations 2001(k) (direct supplies of electricity by utility from fully exempt CHP) unless it remains the subject of an unrestricted CHP LEC.

51G.—(1) Electricity shall not be regarded as QPO electricity for any of the following purposes unless it remains the subject of an unrestricted CHP LEC—

- (a) the outputs of a station referred to in paragraph 15(1) of the Act (supplies to CHP exempt if to be used in producing station’s outputs);
- (b) the electricity referred to in paragraphs 16(1)(a), 17(3) and 17(4) of the Act (supplies from partly exempt CHP are exempt from CCL if specified limit not exceeded; self-supplies from station exempt if producer not auto-generator).

(2) Each of the following exemptions shall only be given effect subject to the CHP Relief Condition (see regulation 51H(1)) being fulfilled as follows—

- (a) for paragraph 15(1) of the Act, the Condition must be fulfilled in relation to any QPO electricity that is a relevant output for the purposes of that paragraph (supplies to CHP exempt if for use in producing station’s outputs);

(j) Regulation 2(1) of S.I. 2001/838, which these Regulations amend, provides that “CCL” refers to climate change levy.
(k) S.I. 2001/1136.

- (b) for paragraph 16(2) of the Act, the Condition must be fulfilled in relation to any QPO electricity referred to in that paragraph (supplies from partly exempt CHP are exempt from CCL if specified limit not exceeded);
- (c) for paragraph 17(2) of the Act, the Condition must be fulfilled in relation to any QPO electricity that is the subject of the supply referred to in that paragraph (self-supply by auto-generator exempt);
- (d) for paragraph 17(3) or 17(4) of the Act, the Condition must be fulfilled in relation to any QPO electricity that is electricity for the purposes of that paragraph (self-supplies from fully or partly exempt CHP exempt from CCL if producer not auto-generator).

51H.—(1) Schedule 2 has effect and, accordingly, the CHP Relief Condition binds any person who—

- (a) represents to a supplier entitlement to the exemption from CCL provided for by paragraph 15(1) of the Act (supplies of taxable commodities to stations, and see also paragraph (4));
- (b) does not account for CCL on a supply because an exemption is provided for by paragraph 16(2), 17(3) or 17(4) of the Act (supplies from partly exempt CHP and self-supplies from fully or partly exempt CHP);
- (c) does not account for CCL on a supply because an exemption is provided for by paragraph 17(2) of the Act (self-supply by autogenerator) (but only if the electricity in question is QPO electricity).

(2) Paragraph 1 and regulations 51F and 51G only apply in relation to supplies that are treated as taking place on or after 1 April 2003 (see paragraphs 25 to 39 of the Act, time of supply).

(3) Regulations 51F and 51G apply in addition to regulation 60(1)(hb) (penalties relating to CHP Relief Condition)).

(4) Part III and Schedule 1 apply independently of this Part (certification, etc. in relation to excluded, exempt, half-rate and reduced-rate supplies).

Supplies pursuant to CHP declaration contract

51I. Electricity is only “CHP electricity” for the purposes of paragraphs 20A and 20B of the Act (exemption for indirect supplies) if it remains the subject of an unrestricted CHP LEC or a restricted CHP LEC.

51J.—(1) Any electricity that is the subject of a CHP LEC shall be regarded as never having been CHP electricity capable of being the subject of exempt CHP supplies for the purposes of paragraph 20A of the Act (indirect supplies) if one or more of the conditions prescribed in the following paragraphs are not fulfilled.

(2) The electricity must only be allocated to a supply to a person who intends it to be consumed in the United Kingdom.

(3) Should the electricity be allocated to some supply pursuant to some CHP declaration contract, the supplier must inform the relevant Authority of this fact and of the relevant CHP LEC’s unique identifying reference (see regulation 51B(10)).

(4) At any time up to 6 years after the day the electricity is produced, any supplier of that electricity must on request and within such time as the relevant Authority considers reasonable provide that Authority with readily legible records relating to and detailing—

- (a) the supplies that supplier received or made of that electricity,
- (b) the relevant suppliers or recipients of any supplies that supplier received or made of that electricity,

- (c) the relevant CHP LECs and, if different from the relevant supplier or recipient, the identity of any person from or to whom entitlement to the CHP LEC was obtained or transferred.

51K. Supplies shall not be regarded as exempt CHP supplies for the purposes of paragraph 20A of the Act unless—

- (a) the supplier provides the recipient with a written notice for the duration of the CHP declaration contract, updated as necessary, setting out how to identify those supplies of electricity that—
 - (i) are or will be made under the CHP declaration contract, and
 - (ii) are or will be referred to on a climate change levy accounting document (or an invoice) issued in respect of those supplies;
- (b) the supplier retains a copy of each such notice for 6 years starting from the day after it is provided to the recipient;
- (c) the supplier provides a copy of any such notice to the Commissioners no later than 14 days after the Commissioners request one.

51L. The exemption provided for by paragraph 20A(1) of the Act (indirect supplies) shall only be given effect if the supplier, and each other person (if any) who is an operator in relation to any CHP electricity allocated by the supplier to supplies under the CHP declaration contract in question, has delivered a copy of the notice referred to in paragraph 20A(1)(d) of the Act (agreement to fulfil conditions) to the relevant Authority.

51M.—(1) A supply of electricity is exempt from the levy chargeable under paragraph 5(1) of the Act, and electricity is “CHP electricity” for the purposes of paragraphs 20A and 20B of the Act, only if paragraph (2) is satisfied in relation to that electricity.

(2) The electricity must not have been produced when the station that produced it has received State aid exceeding any relevant limit in the “Community guidelines on State aid for environmental protection (2001/C 37/03)(I).”.

20. Insert immediately after regulation 60(1)(h)—

- “(ha) regulation 51B(5);
- (hb) regulation 51H(1) and paragraph 2, 3(1), 3(3), 3(4), 3(5), 4, 5, 6, 7, 11(2) or 12(1) of Schedule 2;”.

21. Renumber the existing Schedule “Schedule 1”.

22. Insert as Schedule 2—

“ **SCHEDULE 2** Regulation 51H(1)

The CHP Relief Condition

Introduction

1. These obligations are for the purpose of ensuring the correct application of CCL to the outputs of a fully exempt or a partly exempt combined heat and power station.

(I) OJ C 37, 3.2.2001, p. 3; available also on the World Wide Web at <http://europa.eu.int>.

CHP LEC and outputs record

2. A person to whom regulation 51H(1) applies must for the purposes of that regulation keep and maintain a discrete, proper, accurate and true record (the “CHP outputs record”) of–

- (a) any relevant supply of electricity constituting an output of the station in question for the purposes of paragraph 15(1) of the Act (supplies to stations);
- (b) any relevant supply in relation to which CCL is not accounted for because of an exemption provided for by paragraph 16(2), 17(3) or 17(4) of the Act (supplies from partly exempt CHP and self-supplies);
- (c) any relevant supply in relation to which CCL is not accounted for because of an exemption provided for by paragraph 17(2) of the Act (self-supply by autogenerator) (but only if the electricity in question is QPO electricity).

3.—(1) That record must also identify separately, according to the following categories, each MWh of QPO electricity that is an output of the station in question and allocate to each such MWh a CHP LEC issued in respect of QPO electricity.

(2) The categories are–

- (a) self-supplies of the electricity;
- (b) supplies made to the person who consumes the electricity;
- (c) supplies made to a person who makes a supply of the electricity.

(3) A CHP LEC (or any part of it) that remains allocated to a supply must not be allocated to any other supply.

(4) The allocation must be made no later than the 120th day following when the supply is treated as taking place.

(5) Any restricted CHP LEC must be identified as such in the record no later than the 30th day after the one on which the notification that the relevant Authority has restricted its validity to indirect supplies is received (see regulation 51D and paragraph 11(5)).

4. That record must also show the quantity of all electricity that is an output of the station in question but in relation to which no CHP LEC is issued (including for this purpose, and discretely identified, any renewable source electricity (see Part IV) or electricity produced when no exemption certificate is in force for the station).

5. That record must show –

- (a) when each relevant supply of electricity is treated as taking place and the recipient of each such supply;
- (b) the CHP LEC (if any) relating to that electricity and, if different from the recipient, the identity of any person to whom entitlement to the CHP LEC is transferred;
- (c) the date (or dates) on which each other event to which it relates occurs;
- (d) the date on which each entry to the record is made.

6. That record must be kept for 6 years starting from each reconciliation day to which it is relevant (see paragraphs 10 and 13(3)).

7. Subject to paragraph 6, that record must be made available on request and at any reasonable time to a person authorised by–

- (a) the Secretary of State, or
- (b) the relevant Authority.

8.—(1) This paragraph applies when paragraphs 2 to 7 are not fully met.

(2) The relevant Authority may refuse to certify or issue any CHP LEC in relation to electricity produced in the station (see regulations 51B(1) and 51B(8)).

(3) The relevant Authority may also restrict the validity of any relevant and as yet unrestricted CHP LEC to indirect supplies, in which case the relevant Authority must as soon as practicable notify that restriction to the person to whom it was issued (see regulation 51B(8)).

A CHP LEC is relevant for this purpose if it has not been reconciled in accordance with this Schedule (see paragraph 13(1)).

Reconciliation of outputs

9. For the purposes of the following paragraphs, regard a completed calendar year as one for which 31 December is passed and an incompleting calendar year as one for which 31 December is not passed.

10.—(1) The reconciliation day for a completed calendar year is the earlier of—

- (a) the first day of the month in the subsequent calendar year in which regulation 3(2) of the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001^(m) is met in relation to the station (current CHPQA certificate sent to Secretary of State by 30 June);
- (b) the day in the subsequent calendar year on which revocation of the current exemption certificate takes effect pursuant to regulation 4(2) of those Regulations (station ceases to operate, current CHPQA certificate not sent to Secretary of State by 30 June, or relevant written request to Secretary of State).

The “reconciliation span” relating to this reconciliation day spans 1 January in the completed calendar year to the day before the reconciliation day, inclusive.

(2) A reconciliation day for an incompleting calendar year is any day in that incompleting calendar year on which revocation of the current exemption certificate takes effect pursuant to regulation 4(2) of those Regulations.

The “reconciliation span” relating to any such reconciliation day spans 1 January in that calendar year to the day before that reconciliation day, inclusive.

(3) The relevant Authority shall act in accordance with paragraph 11 no later than the 90th day following a reconciliation day, subject as appropriate to regulations 51C and 51D (relevant Authority neither certifying electricity nor issuing CHP LEC, or relevant Authority dealing with incorrect certification).

(4) A reconciliation day in paragraph (2) may arise irrespective of any overlap between the reconciliation span in that paragraph with the reconciliation span in paragraph (1).

11.— (1) The relevant Authority shall determine whether insufficient or excessive CHP LECs have been issued and remain unrestricted as respects each reconciliation span, having proper regard to the difference between—

- (a) the quantity of QPO electricity actually produced in the station during that reconciliation span, and
- (b) the quantity of QPO electricity represented by the CHP LECs issued as respects electricity produced in the station during that reconciliation span and remaining unrestricted.

(2) If the relevant Authority determines that insufficient CHP LECs have been issued and remain unrestricted as respects a reconciliation span, it must—

- (a) to the extent of that insufficiency, and
- (b) as respects that reconciliation span,

issue additional CHP LECs (see regulation 51B(8)) as respects the QPO electricity outputs of the station.

^(m) S.I. 2001/486.

Any such CHP LEC must, within 60 days of issue, be allocated by the person referred to in paragraph 2 to relevant and appropriate supplies identified in the record as taking place in that reconciliation span.

(3) If the relevant Authority determines that excessive CHP LECs have been issued and remain unrestricted as respects a reconciliation span, it must act in accordance with paragraphs (4) and (5), as appropriate.

(4) If the reconciliation day arises because regulation 3(2) of the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001 is met (see paragraph 10(1)(a)), the relevant Authority must treat the excess CHP LECs as being prospectively referable to figures made known to it by the operator for the purposes of regulation 51B(2) as respects production in the station after the relevant reconciliation day.

(5) If the relevant reconciliation day arises because the exemption certificate is revoked (see paragraph 10(1)(b)), the relevant Authority must restrict the validity of any excess CHP LECs to indirect supplies, in which case it must as soon as practicable notify that restriction to the person to whom the CHP LEC in question was issued or to any person appearing to control the station (see regulation 51B(8)).

The relevant Authority must ensure that those CHP LECs remaining unrestricted afterwards (and not yet reconciled, see paragraph 13(1)) collectively represent QPO electricity produced in the station during the reconciliation span.

(6) For the purposes of this paragraph, the relevant Authority must regard calendar year 2003 as beginning on 1 April 2003.

(7) For the purposes of regulation 51B(6) (QPO electricity referable to calendar year), the relevant Authority must not regard electricity referable to before 1 April 2003 as QPO electricity.

Monitoring and balancing obligation

12.—(1) The CHP outputs record must never show or indicate as respects a reconciliation span—

(a) a deficit of unrestricted CHP LECs in relation to the total quantity of QPO electricity identified in the record pursuant to paragraph 3(2)(a) and 3(2)(b) (self-supplies and supplies to consumers);

(b) a deficit of unrestricted plus restricted CHP LECs in relation to the total quantity of QPO electricity identified pursuant to paragraph 3(2)(a), 3(2)(b) and 3(2)(c) (self-supplies, supplies to consumers and supplies to others).

(2) Each deficit representing 1 MWh shall be regarded as a separate breach of this paragraph for the purposes of regulation 60(1)(hb) (penalties).

(3) Paragraph (1) has effect subject to paragraphs 3(4), 3(5), 11(2) and 11(5).

(4) Paragraph (1) continues to apply after a CHP LEC is reconciled (see paragraph 13(1)).

Interpretation

13.—(1) A CHP LEC is “reconciled” for the purposes of this Schedule only if—

(a) it is the subject of a reconciliation span in relation to which the relevant Authority has performed its functions under paragraph 10(3), and

(b) it is allocated, if required, in accordance with paragraph 11(2).

(2) A CHP LEC the validity of which is restricted under paragraph 8(3) or 11(5) may be regarded as a restricted CHP LEC for the purposes of regulations 51I to 51M.

(3) The CHP outputs record is relevant to a reconciliation day to the extent that it records (or is required to record) events taking place during the reconciliation span relating to that reconciliation day (see paragraphs 6, 10(1) and 10(2)).

(4) See also regulation 51A.”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations come into force on 1 April 2003 and amend the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) (the "General Regulations").

Combined heat and power stations

Regulations 19, 20 and 22 insert new provisions into the General Regulations.

Those inserted by regulation 19 provide for electricity produced in a combined heat and power station to be so certified by the Gas and Electricity Markets Authority (or the Director General of Electricity Supply for Northern Ireland). The existing favourable CCL(n) treatment afforded to such electricity becomes subject to such certification. The new CCL exemption(o) for supplies of such electricity that are not made from the relevant station are subjected to these certification requirements as well as to other formalities. These formalities parallel those that already apply to the exemption for renewable source electricity(p), but with an additional requirement relating to conformity with the Community guidelines on State aid for environmental protection(q).

Regulation 22 inserts certain record-keeping and reconciliation requirements on which favourable CCL treatment is made to depend. These requirements are for the better, quantitative application of the favourable CCL treatment afforded to electricity produced in combined heat and power stations.

Regulation 20 inserts relevant penalty provisions.

The CHPQA Guidance Note 15 Version 1 referred to in regulation 19 (inserted regulation 51B(5)) is available on the World Wide Web at <http://chpqa.com> or from the CHPQA Administrator, telephone 01235 432868.

Renewable source electricity

Supplies of renewable source electricity can be exempt from CCL. Biomass is prescribed as, and peat is excluded from being, a renewable source by the amendments made to the General Regulations by regulations 11 to 13. The provisions inserted by regulations 15 to 16 refine the existing certification process for renewable source electricity. Accurate figures for electricity production must now be finalised no later than 2 months after the month of production. The levy exemption certificates (Renewables LECs) are to be regarded as only relating to a given batch of electricity, may be issued in just multiples of 1 megawatt-hour and may be withheld if the quantity of electricity in question is for consumption outside the United Kingdom.

Consequential amendments and corrections

Regulations 3 to 10, 14, 17, 18 and 21 make consequential amendments and typographical corrections.

(n) Climate change levy.

(o) See S.I. 2003/603 (C. 31); the day appointed for the exemption is 1 April 2003.

(p) See Part IV of the General Regulations.

(q) OJ C 37, 3.2.2001, p. 3; available also on the World Wide Web at <http://europa.eu.int>.

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Regulations 2003

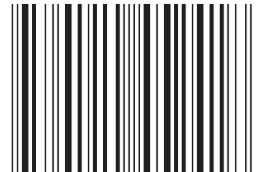
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