
STATUTORY INSTRUMENTS

2010 No. 768

The CRC Energy Efficiency Scheme Order 2010

PART 3

Exemptions

CCA emissions and target periods

29.—(1) In this Part—

- (a) an applicant or, where an applicant is a group, a member of that applicant has CCA emissions where it operates a CCA facility;
- (b) subject to article 36, “exemption CCA target period” means the CCA target period which ends in the qualification year for the phase.

(2) Where, in respect of the first phase, the exemption CCA target period ends at the end of 31st December 2008, that target period is deemed to end within the qualification year.

(3) This Part does not apply to a public body to which article 14 applies.

Total emissions

30.—(1) “Total emissions” means—

- (a) the sum of—
 - (i) EU ETS emissions and CCA emissions as defined by one of the ways given in paragraph 12 of Schedule 5 as chosen by the applicant; and
 - (ii) emissions calculated in accordance with paragraph 29 of Schedule 1 in respect of the amount of electricity, gas and fuel supplied to the applicant calculated in accordance with sections 1 to 5 of Schedule 1 but excluding any supplies in respect of which emissions are included under paragraph (i);

and

- (b) deducting any electricity generating credit of the applicant.

(2) In this Part, total emissions are calculated in respect of the exemption CCA target period.

Electricity generating credit

31.—(1) In article 30, “electricity generating credit” applies where—

- (a) an applicant generates electricity;
- (b) the applicant is not issued with a ROC and is not in receipt of a financial incentive made by virtue of section 41 of the Energy Act 2008(1) in respect of that generation;
- (c) the generation does not occur at a place described in paragraph (3); and

- (d) the electricity generated is supplied to a public body or undertaking and that supply is a supply of electricity under paragraph 1 or 6 of Schedule 1, such electricity being “the generated and supplied electricity”.
- (2) Electricity generating credit is the amount of emissions calculated in accordance with paragraph 29 of Schedule 1 in respect of the generated and supplied electricity.
- (3) The places referred to in paragraph (1) are—
 - (a) an EU ETS installation where electricity is generated;
 - (b) a nuclear power station;
 - (c) a hydro-generating station which was ineligible for a ROC.
- (4) In paragraph (3), “hydro-generating station” has the meaning given by article 2(1) of the Renewables Obligation Order 2009(2) and as if that article applied to Scotland and Northern Ireland.

Member CCA exemptions

- 32.**—(1) Paragraph (2) applies where an applicant—
- (a) consists of a group; and
 - (b) during the exemption CCA target period, a member of the group has CCA emissions which are more than 25% of the total emissions of that member.
- (2) Where this paragraph applies and where the applicant complies with article 35 or 36, as a participant it has a member CCA exemption in respect of such a member.

General CCA exemptions

- 33.**—(1) Paragraph (2) applies where an applicant—
- (a) does not consist of a group; and
 - (b) during the CCA target period, has CCA emissions which are more than 25% of its total emissions.
- (2) Where this paragraph applies and where the applicant complies with article 35 or 36, as a participant it has a general CCA exemption.

Group CCA exemptions

- 34.**—(1) Paragraph (3) applies where—
- (a) an applicant consists of a group; and
 - (b) X minus Y is less than 1000 MWh.
- (2) In paragraph (1)—
- “ X ” means the amount of qualifying electricity supplied to the applicant;
- “ Y ” means—
- (a) where a member of the group satisfies article 32(1)(b), the amount of X which is supplied to each member of the group which satisfies that article; or
 - (b) where no member of the group satisfies article 32(1)(b), zero.
- (3) Where this paragraph applies and where the applicant complies with article 35 or 36, as a participant it has a group CCA exemption.

Requirements for exemptions to apply: general

35. Where an applicant intends that an exemption applies to it, the applicant must provide the following information with the application for registration under article 11—

- (a) which exemption applies; and
- (b) the information required under paragraph 7 of Schedule 5, as applicable to the exemption.

Requirements for exemption to apply: exception

36.—(1) Paragraph (2) applies where—

- (a) a participant does not comply with article 35; and
- (b) an exemption applies to the participant under articles 32 to 34 if the exemption CCA target period means the CCA target period which ends in the footprint year.

(2) Where this paragraph applies and a participant intends that an exemption applies to it, the participant must provide the information in article 35(a) and (b) when it complies with article 39.

Effect of exemptions and records

37.—(1) Subject to article 38—

- (a) except where sub-paragraph (b) applies, as a participant, an applicant is exempt from Parts 4 to 7 of this Order for the phase where a general CCA exemption or a group CCA exemption applies to it;
- (b) where a participant complies with article 36, the participant is exempt from Parts 5 to 7 of this Order for that phase where a general CCA exemption or a group CCA exemption applies to it.

(2) In respect of each year of the phase where the participant is exempt under paragraph (1), it must keep records of the information in paragraph 7 of Schedule 5.

Loss of exemptions and further exemptions

38.—(1) Where—

- (a) a participant has a member CCA exemption; and
- (b) the member to which the exemption applies ceases to be a member of the participant,

the member CCA exemption does not apply for the subsequent years of the phase after the year in which sub-paragraph (b) applies.

(2) Where in a year of a phase, the member of a participant to which a member CCA exemption applies does not have energy use or carbon emissions subject to a CCA target, the member CCA exemption does not apply—

- (a) in the next year of the phase; and
- (b) any subsequent year where the member does not have energy use or carbon emissions subject to a CCA target.

(3) Where in a year of a phase, a participant which has a general CCA exemption does not have energy use or carbon emissions subject to a CCA target, the general CCA exemption does not apply—

- (a) in the next year of the phase; and
- (b) any subsequent year where the participant does not have energy use or carbon emissions subject to a CCA target.

(4) Where in a year of a phase, a participant has a group CCA exemption and—

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- (a) paragraph (1) or (2) applies;
- (b) the calculation in article 34(1) is made excluding the members to which a member CCA exemption is not to apply by reason of those paragraphs; and
- (c) by that calculation, a group CCA exemption would not apply,

the group CCA exemption does not apply in the next year of the phase and any subsequent year where by such a calculation, a group CCA exemption would not apply.

(5) Where an exemption does not apply as provided under this article, the participant must notify the administrator of that fact when it provides, as applicable, the footprint report or the annual report.

(6) Where article 46 or 51 applies, further exemptions apply under section 2 of Part 3 of Schedule 6.