

Carbon price floor

Who is likely to be affected?

UK generators of fossil-fuel based electricity, including combined heat and power (CHP) operators and auto-generators; those supplying such generators; and electricity utilities.

General description of the measure

The Government is announcing changes and further details about the carbon price floor (CPF) alongside publication of draft legislation. These changes will come into effect from the start of the CPF on 1 April 2013. This measure is designed to clarify how the CPF will operate with regards to: the tax point and taxable person; non-CHP generators (including auto-generators and exempt unlicensed suppliers) and stand-by generators; and CHP stations.

Policy objective

The CPF is designed to provide an incentive to invest in low-carbon power generation by providing greater support and certainty to the carbon price in the UK's electricity generation sector.

The changes to the tax point create certainty and simplify the administration of the carbon price support (CPS) rate for coal. They also provide clarification about who is liable to pay the tax where the owner of the input fuel and the generator are not the same person. The changes relating to the taxation of non-CHP generators and CHPs remove anomalies in tax treatment and ensure a continued benefit from maximising efficiency under the CHP Quality Assurance (CHPQA) Programme.

Background to the measure

Budget 2011 announced that, following consultation, the Government would introduce a CPF from 1 April 2013. Supplies of coal, gas and liquefied petroleum gas (LPG) used in most forms of electricity generation would become liable to newly created CPS rates of climate change levy (CCL), which would be different from the main CCL rates levied on consumers' use of these commodities (and electricity). The amount of fuel duty reclaimable on oil used in electricity generation would be adjusted to establish new CPS rates of fuel duty.

Finance Act 2011 contained the initial primary legislation, including the CPS rates of CCL for 2013-14.

Budget 2012 announced some changes, including that supplies of fossil fuels to CHP stations would be exempt from the CPS rates where the fuel is used to generate good quality heat. It also announced the CPS rates for 2014-15 and indicative rates for 2015-16 and 2016-17. Legislation was included in Finance Act 2012.

The Autumn Statement on 5 December 2012 announced that, subject to the outcome of discussions with the European Commission over State aid, Northern Ireland will be exempt from the CPF.

Detailed proposal

Operative date

The CPS rates of CCL, including the changes outlined above, will have effect for supplies of coal, gas or LPG made to generators on or after 1 April 2013. The CPS rates of fuel duty will apply in relation to any claim for relief on oil used to generate electricity on or after 1 April 2013, irrespective of when that oil was supplied to the generator.

Current law

Schedule 6 to Finance Act 2000 (Schedule 6) contains CCL's primary legislation and exempts from the levy supplies of electricity, solid fuels, LPG and gas used for the generation of electricity. Schedule 6 was amended by section 78 of, and Schedule 20 to, Finance Act 2011 and by section 207 of, and Schedule 32 to, Finance Act 2012 to provide for the CPF provisions in respect of gas, coal and LPG.

The Climate Change Levy (General) Regulations 2001 (SI 2001/838) (the general regulations) govern the administration of CCL.

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. They also contain details of the relief from fuel duty for oils used in a CHP plant to generate electricity.

Proposed revisions

Legislation will be introduced in Finance Bill 2013 to amend the changes to Schedule 6 made by Finance Acts 2011 and 2012. In the interests of transparency and clarity, the legislation will be consolidated into a new schedule.

Two statutory instruments will be laid in spring 2013 and come into force on 1 April 2013:

- *The Climate Change Levy (General) (Amendment) Regulations 2013* will amend the general regulations to enable HM Revenue and Customs (HMRC) to administer the CPS rates of CCL, including the reliefs.
- *The Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendment) Regulations 2013* will amend the 2005 regulations to adjust the amount of fuel duty that can be reclaimed by those generating electricity using oils (in effect creating CPS rates of fuel duty). The changes will also ensure that oils used in a CHP to produce heat will continue to be fully reclaimable.

Tax point and taxable person

The changes clarify when a supply takes place for the purposes of the CPS rates of CCL and who has to register and account for those rates (the taxable person) to HMRC:

- The supply of coal, natural gas or LPG to a generator with a generating capacity above 2 megawatts (MW) will continue to be exempt from main rates of CCL when the fuel is to be used for generating electricity. However, a supply will be deemed to take place for the purposes of the CPS rates of CCL (the deemed supply) upon delivery of the fuel to the generating station or site of CHP scheme.
- The taxable person will be the owner of the generating station in the case of a non-CHP generator and the operator in the case of a CHP generating station.
- Coal or LPG delivered to a generating station before 1 April 2013 will not be taxable as a result of these changes.

- Delivery of natural gas for CPS purposes will occur when the gas passes through the meter into the generating station or CHP. Delivery of coal and LPG will occur when the fuel passes the entrance to the generating station or CHP (in the case of coal at the weighbridge).
- Where coal slurry is mixed with coal prior to delivery to the generating station and this is evidenced, an adjustment will be permitted to the calorific value of the supply to achieve an effective exemption from tax for the coal slurry.

Non-CHP generators (including auto-generators and exempt unlicensed suppliers) and stand-by generators

The changes clarify how supplies will be taxed when made to (and by) non-CHP generators and to stand-by generators:

Non-CHP generators using coal, gas or LPG

- Those that have a generating capacity of 2MW or lower will:
 - not be liable to the CPS (or main) rates of CCL on their input fuels used to generate electricity that is exported to the grid; that electricity will remain liable to CCL when supplied by a utility; and
 - continue to be charged the main rates of CCL on their input fuels used to generate electricity that is self-supplied or supplied directly to an end consumer (i.e. not through a utility); the electricity will remain exempt from CCL.
- Those with a generating capacity above 2MW will be liable to pay:
 - the CPS rates of CCL on the deemed supply of their input fuels used to generate electricity; and
 - CCL on self-supplies of electricity and on electricity supplied direct to a non-domestic end consumer. If the electricity is exported to the grid it will remain liable to CCL when supplied by the utility.
- When calculating generating capacity, account must be taken of all generators operated by the same person or any connected person (excluding stand-by generators and CHPs).
- Fuel that is used in stand-by generators will continue to be subject to the main rates of CCL, and there will be no liability to account for CCL on electricity outputs. A stand-by generator is a generating station which is designed and used to provide an emergency electricity supply to a building in the event of a failure of the building's usual electricity supply. This does not include any generator supplying electricity to the grid.

Non-CHP generators using oils

- A generating capacity threshold will not apply to supplies of oil used in electricity generation.
- Oil used to generate electricity will continue to be subject to the main rates of fuel duty, unless the electricity is exported to the grid, in which case the amount of duty that can be reclaimed on the oil will be adjusted so that the amount is equivalent to the relevant CPS rate of fuel duty.
- The electricity arising from generation using oil will remain exempt from CCL if it is self-supplied or supplied directly to an end consumer. It will remain liable to CCL if it is exported to the grid and supplied by a utility.

CHP stations

The changes clarify how supplies to (and by) CHPs will be taxed:

- Supplies of coal, gas or LPG (excluding deemed supplies) to CHP stations registered under the CHPQA Programme that are used to generate outputs that are good quality, will continue to be exempt from the main rates of CCL.
- The operator of a CHP with a generating capacity above 2MW will be liable to account for the CPS rates of CCL on the proportion of deemed supplies of coal, gas or LPG used to generate electricity.
- When calculating the generating capacity for a CHP no account will be taken of other stations operated by the same person or any connected person. The generating capacity will be specific to each individual CHP scheme.
- CHP stations registered under the CHPQA Programme which burn oils will continue to be able to claim relief on oils used to generate outputs that are good quality. This relief will be scaled back by the amount of the CPS rate in relation to the quantity of oil used to generate electricity.
- The proportion of the fuel input that is used to generate electricity is to be calculated using the established boiler displacement method.
- Output electricity from a good quality CHP will remain outside the scope of CCL when subject to a self or direct supply. Such supplies will remain partially exempt if the CHP does not meet good quality standards. The position for indirect supplies of electricity (those made via the Grid) was announced at Budget 2012.

Summary of impacts

This summary focuses on the changes being announced today.

Exchequer impact (£m)	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	-	negligible	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer. Any impact will be set out at Budget 2013.					
Economic impact	The measure is not expected to have any significant economic impacts.					
Impact on individuals and households	These changes only directly affect businesses, as domestic generators are not subject to the CPF or CCL. The impact of the measure on wholesale electricity prices will be negligible; therefore any impact on household electricity bills will be minimal.					
Equalities impacts	The proposed changes are 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 and civil society organisations.</p> <p>Businesses with an auto-generator with a generating capacity above 2MW will be charged CCL for the electricity that they supply to themselves. This will result in additional continuing administrative costs to them from having to register for CCL and make returns. This is expected to increase annual administrative burdens by between £917 and £1,400 per business. In addition, there will be a one-off registration cost of £18 per business.</p> <p>For CHP plants, the threshold for which they will not be liable for CPS rates of CCL will be based upon their generating capacity at the scheme level rather than at the person level. This will remove around 450 CHPs</p>					

	<p>owned by around 20 businesses from these rates. This will result in the businesses affected not having to register for the CPS rates of CCL or make returns for these CHPs. This is expected to result in an annual administrative saving of between £917 and £1,400 per business. There will also be a one-off saving from not having to register for CCL of £18 per business.</p> <p>Businesses with auto-generators with a generating capacity below 2MW will not be exempt from paying CCL rates on the gas, coal and LPG used to generate electricity for their own use. This represents a continuing annual saving of £50 per auto-generator as they do not need to submit information to claim the exemption.</p>
Operational impact (£m) (HMRC or other)	The additional costs and savings for HMRC in implementing these changes are anticipated to be negligible.
Other impacts	<p><u>Carbon assessment</u>: restoring the tax benefits associated with membership of the CHPQA, and proceeding with the exemption from the CPS rates for inputs used for non-electricity outputs will incentivise CHP.</p> <p>Other impacts have been considered and none have been identified.</p>

Monitoring and evaluation

The Government will consider how best and when to evaluate the overall policy against its objective to encourage investment in low-carbon power generation. The impact of the changes set out in this note will be kept under review through regular communication with affected taxpayer groups.

Further advice

If you have any questions about these changes, please contact the Excise and Customs Helpline on 0845 010 9000.

- 1 Climate change levy: supplies subject to carbon price support rates etc**
Schedule 1 amends Schedule 6 to FA 2000 (climate change levy).

SCHEDULES

SCHEDULE 1

Section 1

CLIMATE CHANGE LEVY: SUPPLIES SUBJECT TO CARBON PRICE SUPPORT RATES ETC

PART 1

EARLIER PROVISION NOT TO HAVE EFFECT

- 1 (1) Schedule 6 to FA 2000 (climate change levy) has effect as if neither –
 - (a) Schedule 20 to FA 2011, nor
 - (b) Parts 1 and 2 of Schedule 32 to FA 2012, had ever been enacted.
- (2) Accordingly –
 - (a) in FA 2011, section 78 and Schedule 20 are omitted, and
 - (b) in FA 2012, Parts 1 and 2 of Schedule 32 are omitted.
- (3) This paragraph is treated as having come into force on [31] March 2013.

PART 2

NEW PROVISION HAVING EFFECT FROM 1 APRIL 2013

New provision

- 2 Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- 3 In paragraph 4 (definition of “taxable supply”) in sub-paragraph (2)(b) after “24” insert “, 24A, 24B, 24C, 42D”.
- 4 In paragraph 5 (supplies of electricity) after sub-paragraph (2) insert –
 - “(2A) Levy is chargeable on a supply of electricity if –
 - (a) the supply is made by an exempt unlicensed electricity supplier who is an auto-generator or who is of a description prescribed by regulations made by the Treasury,
 - (b) the electricity was produced in a generating station owned by the supplier from commodities which were the subject of a deemed supply under paragraph 24A,
 - (c) the supply is not a deemed supply under paragraph 23(3), and
 - (d) the person to whom the supply is made is not an electricity utility.”

- 5 In paragraph 6 (supplies of gas) in sub-paragraph (2A) after “24” insert “, 24A, 24B, 24C, 42D”.
- 6 (1) Paragraph 14 (exemption for supplies to electricity producers) is amended as follows.
- (2) In sub-paragraphs (2)(b) and (3)(b) after “electricity” insert “in a small generating station”.
- (3) After sub-paragraph (3) insert –
- “(3ZA) Sub-paragraph (1) does not exempt a supply where the person to whom the supply is made –
- (a) uses the commodity supplied in producing electricity in a stand-by generator, and
- (b) uses the electricity produced otherwise than in exemption-retaining ways.”
- (4) After sub-paragraph (3A) insert –
- “(3B) Paragraph 24A makes provision under which carbon price support rate commodities intended to be used in a generating station may be the subject of a deemed taxable supply (and, accordingly, this paragraph needs to be read subject to that paragraph).”
- (5) Omit sub-paragraphs (4) and (5).
- 7 In paragraph 15 (exemption for supplies to combined heat and power stations) after sub-paragraph (4) insert –
- “(4A) Paragraph 24B makes provision under which carbon price support rate commodities intended to be used in a combined heat and power station may be the subject of a deemed taxable supply (and, accordingly, this paragraph needs to be read subject to that paragraph).”
- 8 (1) Paragraph 17 (exemption: self-supplies by electricity producers) is amended as follows.
- (2) After sub-paragraph (1) insert –
- “(1A) The supply is exempt from levy if it is a supply of electricity produced in –
- (a) a fully exempt combined heat and power station,
- (b) a partly exempt combined heat and power station,
- (c) a stand-by generator, or
- (d) a small generating station.
- (1B) Sub-paragraph (1A)(d) applies only if the producer is –
- (a) an auto-generator, or
- (b) an exempt unlicensed electricity supplier of a description prescribed by regulations made by the Treasury.”
- (3) In sub-paragraph (2) for the words from “If” to “unless –” substitute “This paragraph does not exempt the supply if –”.
- (4) Omit sub-paragraphs (3) and (4).

- 9 In paragraph 21 (regulations to avoid double charges to levy) after sub-paragraph (2) insert –
- “(2A) In sub-paragraph (2)(b) “taxable supply” does not include a deemed supply under paragraph 24A, 24B, 24C or 42D.”
- 10 In Part 2 after paragraph 24 insert –

“Deemed taxable supply: commodities to be used in producing electricity

- 24A (1) Sub-paragraph (2) applies if –
- (a) a quantity of a carbon price support rate commodity is brought onto, or arrives at, a site in the United Kingdom at which a generating station is situated,
 - (b) that quantity of the commodity is intended to be used for producing electricity in the station,
 - (c) the station is neither a fully exempt combined heat and power station nor a partly exempt combined heat and power station, and
 - (d) the station is neither a small generating station nor a stand-by generator.
- (2) For the purposes of this Schedule the owner of the station is deemed to make a taxable supply to himself of that quantity of the commodity.
- (3) In sub-paragraph (1)(a) the reference to a commodity being brought onto, or arriving at, a site covers (in particular) gas in a gaseous state arriving at the site through a pipe.
- (4) For the purposes of sub-paragraph (1) it does not matter –
- (a) if the quantity of the commodity is not the subject of an actual supply made to the owner of the station, or
 - (b) if the commodity’s availability for use in the station is subject to any condition.

Deemed supply: commodities to be used in combined heat and power station

- 24B (1) Sub-paragraph (2) applies if –
- (a) a quantity of a carbon price support rate commodity is brought onto, or arrives at, the CHPQA site of a fully exempt combined heat and power station or a partly exempt combined heat and power station,
 - (b) that quantity of the commodity is intended to be used in the station for producing outputs of the station, and
 - (c) the station is not a small generating station.
- (2) For the purposes of this Schedule the operator of the station is deemed to make a taxable supply to himself of that quantity of the commodity so far as that quantity is referable to the production of electricity.
- (3) For the purposes of sub-paragraph (2) the extent to which a quantity of a commodity is referable to the production of electricity is to be determined in accordance with regulations made by the Commissioners.

- (4) Regulations under sub-paragraph (3) may, in particular, include—
- (a) provision in respect of the calculations, measurements, data and procedures to be made or used;
 - (b) provision that, so far as framed by reference to any document, is framed by reference to that document as from time to time in force.
- (5) In sub-paragraph (1)(a) the reference to a commodity being brought onto, or arriving at, the CHPQA site of a station covers (in particular) gas in a gaseous state arriving at the CHPQA site through a pipe.
- (6) In sub-paragraph (1)(b) “outputs” has the meaning given by paragraph 148(9).
- (7) For the purposes of sub-paragraph (1) it does not matter—
- (a) if the quantity of the commodity is not the subject of an actual supply made to the operator of the station, or
 - (b) if the commodity’s availability for use in the station is subject to any condition.
- (8) In this paragraph “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 scheme in relation to which the station’s CHPQA certificate was issued.
- (9) In sub-paragraph (8) “CHPQA certificate” has the same meaning as in the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001 (S.I. 2001/486).
- 24C (1) This paragraph applies if—
- (a) a determination (“the initial determination”) is made under regulations under paragraph 24B(3) that—
 - (i) none of a quantity of a carbon price support rate commodity is, or
 - (ii) a proportion of such a quantity is not, referable to the production of electricity,
 - (b) as a result of the initial determination, the quantity or proportion of a quantity is determined not to be the subject of a deemed supply under paragraph 24B, and
 - (c) it is later determined that the initial determination was wrong and that, accordingly, the quantity or proportion of a quantity should have been determined to be the subject of a deemed supply under paragraph 24B.
- (2) For the purposes of this Schedule—
- (a) the operator of the station in question is deemed to make a taxable supply to himself of the quantity or proportion of a quantity, and
 - (b) the amount payable by way of levy on the deemed supply is the amount which would have been payable on the deemed supply mentioned in sub-paragraph (1)(c).”

Power to make regulations giving effect to paragraphs 24A to 24C etc

- 24D (1) The Commissioners may by regulations make provision for giving effect to paragraphs 24A to 24C and 42A to 42D.
- (2) Regulations under sub-paragraph (1) may, in particular, include provision for determining –
- (a) whether a deemed supply under paragraph 24A or 24B is made;
 - (b) the quantity of any commodity which is the subject of such a deemed supply;
 - (c) whether paragraph 42C(2) applies in relation to a deemed supply under paragraph 24A or 24B and, if it does, the reduction in the relevant carbon price support rate.
- 11 After paragraph 38 insert –
- “Deemed supplies under paragraph 24A, 24B, 24C or 42D*
- 38A (1) A deemed supply under paragraph 24A or 24B is treated as taking place when the quantity of the commodity is brought onto, or arrives at, the site at which the station is situated or the CHPQA site of the station (as the case may be).
- (2) A deemed supply under paragraph 24C or 42D is treated as taking place upon the later determination.”
- 12 (1) Paragraph 39 (regulations as to time of supply) is amended as follows.
- (2) In sub-paragraph (1)(c) after “24” insert “, 24A, 24B, 24C, 42D”.
- (3) In sub-paragraph (3) after “supply)” insert “and 38A”.
- 13 In paragraph 42 (amount payable by way of levy) before sub-paragraph (2) insert –
- “(1B) Sub-paragraph (1) does not apply to a deemed supply under paragraph 24A or 24B.”
- 14 After paragraph 42 insert –
- “42A(1) This paragraph applies to a deemed supply under paragraph 24A or 24B.
- (2) The amount payable by way of levy on the deemed supply is the amount ascertained by applying the relevant carbon price support rate; and the levy payable on a fraction of a quantity of a commodity is that fraction of the levy payable on that quantity of the commodity.
- (3) The carbon price support rates are as follows.

<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00091 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.01460 per kilogram
Coal	£0.44264 per gigajoule

(4) Sub-paragraph (2) needs to be read with paragraphs 42B and 42C.

42B (1) This paragraph applies for the purposes of paragraph 42A(2) if the commodity deemed to be supplied is a quantity of coal.

(2) The number of gigajoules in the quantity supplied is to be determined by reference to the total gross calorific value of that quantity.

(3) The gross calorific value of any coal slurry included in that quantity is to be left out of account in determining the total gross calorific value of that quantity.

42C (1) Sub-paragraph (2) applies for the purposes of paragraph 42A(2) if, in the calendar year in which the deemed supply is treated as taking place, carbon capture and storage technology is operated in relation to carbon dioxide generated by the station in question in producing electricity.

(2) In relation to the deemed supply, only C% of the relevant carbon price support rate is to be applied (instead of the full rate).

(3) “C%” is 100% minus the station’s carbon capture percentage for the calendar year.

(4) The station’s “carbon capture percentage” for the calendar year is the percentage of the station’s generated carbon dioxide for that year which, through the operation of the carbon capture and storage technology, is –

(a) captured, and

(b) then disposed of by way of permanent storage.

(5) The station’s “generated carbon dioxide” for the calendar year is the amount of carbon dioxide generated in the year by the station in producing electricity from carbon price support rate commodities.

(6) In this paragraph “carbon capture and storage technology” and “carbon dioxide” have the meaning given by section 7(3) and (4) of the Energy Act 2010.

- (7) Sub-paragraph (8) applies for the purposes of sub-paragraph (4) in relation to any carbon dioxide if –
- (a) the carbon dioxide is captured but then leaks out and therefore is not disposed of by way of permanent storage, but
 - (b) the leak does not occur –
 - (i) on the land on which the station is situated,
 - (ii) on any other land under the control of the station’s owner or a person connected with the station’s owner, or
 - (iii) from any pipeline or other facility or installation which is operated by the station’s owner or a person connected with the station’s owner.
- Section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies for the purposes of paragraph (b).
- (8) The carbon dioxide is to be treated as if it had been disposed of by way of permanent storage.
- (9) If the percentage mentioned in sub-paragraph (4) is not a whole number, it is to be rounded to the nearest whole number (taking 0.5% as nearest to the next whole number).

- 42D (1) This paragraph applies if –
- (a) an amount is determined to be payable by way of levy on a deemed supply of a quantity of a commodity under paragraph 24A or 24B, but
 - (b) it is later determined that that amount is too low.
- (2) For the purposes of this Schedule –
- (a) the person who made the deemed supply is deemed to make a further taxable supply to himself of the quantity of the commodity, and
 - (b) the amount payable by way of levy on that further deemed supply is –
 - (i) the total amount payable on the first deemed supply on the basis of the later determination mentioned in sub-paragraph (1)(b), less
 - (ii) the amount previously determined to be payable on the first deemed supply.”

15 In paragraph 62 (tax credits) in sub-paragraph (1) after paragraph (b) insert –

- “(ba) after –
- (i) a determination is made under regulations under paragraph 24B(3) that a quantity, or a proportion of a quantity, of a carbon price support rate commodity is referable to the production of electricity, and
 - (ii) it is accordingly determined that the quantity or proportion of a quantity is the subject of a deemed supply under paragraph 24B,
- it is determined that the quantity or proportion of a quantity was not referable to the production of electricity;

- (bb) after an amount is determined to be payable by way of levy on a deemed supply under paragraph 24A or 24B, it is determined that that amount is too high;”.
- 16 In paragraph 146 (regulations) in sub-paragraph (3) –
- (a) for “14(3),” substitute “5(2A), 14(2),” and
 - (b) after “16,” insert “17(1B),”.
- 17 In paragraph 147 (definitions) –
- (a) at the appropriate places, insert –
 - ““carbon price support rate commodity” means –
 - (a) any gas in a gaseous state that is of a kind supplied by a gas utility,
 - (b) any petroleum gas, or other gaseous hydrocarbon, in a liquid state, or
 - (c) coal;”, - ““exempt unlicensed electricity supplier” has the meaning given by paragraph 152A;”,
 - ““small generating station” has the meaning given by paragraph 152B;” and
 - ““stand-by generator” means a generating station which is designed and used to provide an emergency electricity supply to a building in the event of a failure of the building’s usual electricity supply;” and
 - (b) in the definition of “prescribed” –
 - (i) for “14(3),” substitute “5(2A), 14(2),” and
 - (ii) after “16(3)” insert “, 17(1B)”.
- 18 After paragraph 152 insert –

“Meaning of “exempt unlicensed electricity supplier”

152A(1) In this Schedule “exempt unlicensed electricity supplier” means a person –

- (a) to whom an exemption from section 4(1)(c) of the Electricity Act 1989 (persons supplying electricity to premises) has been granted by an order under section 5 of that Act, or
- (b) to whom an exemption from Article 8(1)(c) of the Electricity Supply (Northern Ireland) Order 1992 has been granted by an order under Article 9 of that Order,

except where the person is acting otherwise than for purposes connected with the carrying on of activities authorised by the exemption.

- (2) Sub-paragraph (1) applies subject to –
 - (a) any direction under paragraph 151(1), and
 - (b) any regulations under paragraph 151(2).

Meaning of “small generating station”

- 152B(1) In this Schedule “small generating station” means a generating station the capacity of which for producing electricity is no more than 2 megawatts.
- (2) Sub-paragraph (3) applies if a relevant station (“station X”) is one of a number of relevant stations which –
- (a) are situated in the United Kingdom, and
 - (b) are owned by P or persons connected with P.
- (3) In applying sub-paragraph (1) in relation to station X, the reference to the capacity of a generating station is to be read as a reference to the capacity of station X and all the other relevant stations mentioned in sub-paragraph (2) taken together.
- (4) For the purposes of sub-paragraph (2)(b) –
- (a) “P” is the person who owns station X, and
 - (b) section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies.
- (5) In this paragraph “relevant station” means a generating station which is not –
- (a) a fully exempt combined heat and power station,
 - (b) a partly exempt combined heat and power station, or
 - (c) a stand-by generator.”
- 19 (1) Regulation 5 of the Climate Change Levy (Electricity and Gas) Regulations 2001 (S.I. 2001/1136) is amended as follows.
- (2) In paragraph (1) for “paragraph 14(2) of the Act (exemption: certain supplies to electricity producers)” substitute “paragraphs 5(2A), 14(2) and 17(1B) of the Act (which contain references to exempt unlicensed electricity suppliers)”.
- (3) In paragraph (2)(a) for “14(4)” substitute “152A(1)”.
- (4) The amendments made by this paragraph are to be treated as having been made by the Treasury under the powers to make regulations conferred by paragraphs 5(2A), 14(2) and 17(1B) of Schedule 6 to FA 2000.

Commencement

- 20 This Part of this Schedule is treated as having come into force on [31] March 2013.
- 21 (1) The amendments made by paragraph 6(2) and (3) above have effect for the purpose of determining if a supply of gas or electricity is exempt from levy where the gas or electricity is actually supplied on or after 1 April 2013.
“Gas” means gas in a gaseous state that is of a kind supplied by a gas utility.
- (2) Those amendments are to have effect for the purpose of determining if any other supply is exempt from levy where the supply is treated as taking place on or after 1 April 2013.

- (3) The amendments made by paragraph 8 above have effect for the purpose of determining if a supply of electricity is exempt from levy where the electricity is caused to be consumed on or after 1 April 2013.
- (4) The amendment made by paragraph 10 above has effect in relation to carbon price support rate commodities which are brought onto, or arrive at, sites on or after 1 April 2013.

PART 3

CARBON PRICE SUPPORT RATES FROM 1 APRIL 2014

- 22 (1) In paragraph 42A of Schedule 6 to FA 2000 (as inserted by paragraph 14 above) for sub-paragraph (3) substitute –
 - “(3) The carbon price support rates are as follows.

<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any gas in a gaseous state that is of a kind supplied by a gas utility	£0.00175 per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£0.02822 per kilogram
Coal	£0.85489 per gigajoule”

- (2) The amendment made by this paragraph has effect in relation to supplies treated as taking place on or after 1 April 2014 but before 1 April 2015.

PART 4

CARBON PRICE SUPPORT RATES FROM 1 APRIL 2015

- 23 (1) In paragraph 42A of Schedule 6 to FA 2000 (as inserted by paragraph 14 above) for sub-paragraph (3) substitute –
 - “(3) The carbon price support rates are as follows.

<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any gas in a gaseous state that is of a kind supplied by a gas utility	£[0.00221] per kilowatt hour

Schedule 1 – Climate change levy: supplies subject to carbon price support rates etc
 Part 4 – Carbon price support rates from 1 April 2015

<i>Carbon price support rate commodity</i>	<i>Carbon price support rate</i>
Any petroleum gas, or other gaseous hydrocarbon, in a liquid state	£[0.03564] per kilogram
Coal	£[1.07962] per gigajoule”

- (2) The amendment made by this paragraph has effect in relation to supplies treated as taking place on or after 1 April 2015.

EXPLANATORY NOTE

CLIMATE CHANGE LEVY: SUPPLIES SUBJECT TO CARBON PRICE SUPPORT RATES ETC.

SUMMARY

1. This Schedule amends Schedule 6 (Schedule 6) to the Finance Act 2000 to reflect the introduction of the carbon price floor, as it applies to coal, gas and liquefied petroleum gas (LPG) used in most forms of electricity generation, with effect from 1 April 2013. Part 1 of the Schedule repeals the carbon price floor provisions set out in Finance Acts 2011 and 2012, from [31] March 2013. Part 2 of the Schedule re-enacts the previous legislation in this Schedule in an amended and consolidated form, with effect from 1 April 2013. It also re-establishes the carbon price support (CPS) rates of climate change levy (CCL) (the CPS rates) and sets the rates for 2013-14. In addition, it sets out the scope of the tax and provides for the Commissioners for HM Revenue and Customs (HMRC) to make regulations to give effect to the CPS rates. Part 3 of the Schedule sets the CPS rates for 2014-15 and Part 4 sets them for 2015-16, with effect from 1 April 2014 and 1 April 2015 respectively.

DETAILS OF THE SCHEDULE

Part 1

Earlier provision not to have effect

2. Paragraph 1 repeals all previous carbon price floor primary legislation, which was set out in section 78 of, and Schedule 20, to the Finance Act 2011 and Parts 1 and 2 of Schedule 32 to the Finance Act 2012.

Part 2

New provisions having effect from 1 April 2013

3. Paragraph 2 provides for Schedule 6 to be amended.
4. Paragraph 3 inserts references to four new paragraphs of Schedule 6 into paragraph 4(2)(b) of Schedule 6 to provide that references to taxable supplies include deemed supplies subject to the CPS rates.
5. Paragraph 4 inserts a new sub-paragraph (2A) into paragraph 5 of Schedule 6 to make the electricity produced by auto-generators (persons who generate electricity for their own use) and other exempt

unlicensed generators liable to the CCL if their generating capacity is above 2 megawatts (MW) and they are producing electricity from commodities that are subject to the CPS rates.

6. Paragraph 5 inserts references to four new paragraphs of Schedule 6 into paragraph 6(2A) of Schedule 6 to provide that CCL is chargeable on deemed supplies of gas used in electricity generation.
7. Paragraph 6 amends paragraph 14 of Schedule 6 (exemption for supplies to electricity producers). It amends sub-paragraphs (2)(b) and (3)(b) to extend the exemption from the main rates of CCL to auto-generators and exempt unlicensed suppliers with a generating capacity above 2MW. It inserts new sub-paragraph (3ZA) to exclude stand-by generators from the scope of the exemption and inserts new sub-paragraph (3B) to clarify that the exemption from CCL for supplies for supplies of coal, gas and LPG to generating stations does not apply to deemed supplies of these commodities that are subject to the CPS rates. Finally, it removes unnecessary definitions which are now defined in amended paragraph 147 of Schedule 6.
8. Paragraph 7 inserts new sub-paragraph (4A) into paragraph 15 of Schedule 6 to clarify that the exemption from CCL for supplies of coal, gas and LPG made to CHP stations does not apply to deemed supplies of these commodities that are subject to the CPS rates.
9. Paragraph 8 amends paragraph 17 of Schedule 6 to remove the exemption from CCL on self-supplies of electricity when made by auto-generators and exempt unlicensed generators that are not CHP stations, stand-by generators or small generating stations. It provides that partly exempt CHP stations will continue to be liable to CCL on self-supplies that do not qualify for exemption under regulations made by the Treasury (the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005).
10. Paragraph 9 amends paragraph 21 of Schedule 6 (regulations to avoid double charges to levy) to exclude deemed supplies of coal, gas and LPG used to generate electricity from the scope of the power to make regulations to avoid double charging.
11. Paragraph 10 inserts four new paragraphs into Schedule 6.
12. New paragraph 24A provides that when commodities subject to the CPS rates are brought onto, or arrive at, an electricity generating station that is not a CHP station, a small generator or a stand-by generator, the owner of the station will be deemed to have made a supply of those commodities to himself.
13. New paragraph 24B provides that when commodities subject to the CPS rates are brought onto, or arrive at, a CHP station that is not a

small generating station, the operator of the station will be deemed to have made a supply to himself of the quantity of the commodities that are referable to production of electricity, and further provides for the Commissioners for HMRC to make regulations to determine the extent to which a quantity is so referable.

14. New paragraph 24C provides that if a quantity of a commodity is treated as not being referable to the production of electricity and it is later determined that it was so referable and should have been the subject of a deemed supply under new paragraph 24B, the operator of the station is deemed to make a deemed self-supply of that quantity.
15. New paragraph 24D authorises the Commissioners for HMRC to make regulations to give effect to new paragraphs 24A to 24C and 42A to 42D.
16. Paragraph 11 inserts new paragraph 38A into Schedule 6 to provide that deemed supplies of commodities subject to the CPS rates are to be treated as taking place when the fuel is brought onto, or arrives at, the generating station or CHP station. It also provides that where there is a deemed supply because it is later determined that a quantity of a commodity should have been the subject of a deemed supply or because the amount of CCL paid on the original deemed supply was too low, the time of supply is treated as taking place upon the later determination.
17. Paragraph 12 makes consequential amendments to paragraph 39 of Schedule 6 to provide that the Commissioners for HMRC may make regulations as to the time of supply under the new deemed supply provisions set out in this Schedule.
18. Paragraph 13 inserts new sub-paragraph (1B) into paragraph 42 of Schedule 6 to provide that the main, reduced and lower rates of CCL set out in sub-paragraph (1) do not apply to deemed supplies of commodities used to produce electricity.
19. Paragraph 14 inserts four new paragraphs into Schedule 6.
20. New paragraph 42A provides that, for deemed supplies of commodities used to generate electricity under new paragraphs 24A and 24B, the rates of CCL that apply are the CPS rates, subject to the provisions of new paragraphs 42B and 42C. It sets out the CPS rates, which are expressed in monetary amounts per unit of each fossil fuel.
21. New paragraph 42B provides that, in the case of the CPS rate on coal, the rate is to be calculated with reference to the gross calorific value. It also provides that the gross calorific value of any coal slurry content is to be left out of the calculation of the calorific value, in effect exempting coal slurry from the CPS rate for coal.

22. New paragraph 42C makes various provisions for reductions in the amount of CPS rates payable where carbon capture and storage technology is installed by electricity generators.
23. New paragraph 42D provides for a further deemed self-supply where it is later determined that the amount of levy paid on an initial deemed self-supply was too low. The amount payable on the further deemed self-supply is the difference between what was originally paid on the first deemed supply and what ought to have been paid.
24. Paragraph 15 inserts new sub-paragraphs (ba) and (bb) after paragraph 62(1)(b) of Schedule 6 to enable the Commissioners for HMRC to make regulations providing for a credit in cases where there has been an overpayment on deemed supplies of coal, gas or LPG subject to the CPS rates.
25. Paragraph 16 makes consequential amendments to paragraph 146 of Schedule 6 relating to when Treasury Regulations can be made under the draft affirmative procedure in respect of the description of an exempt unlicensed supplier.
26. Paragraph 17 inserts new definitions arising from this Schedule into paragraph 147 of Schedule 6 and makes consequential amendment arising from the amendments made by paragraph 16 of the Schedule.
27. Paragraph 18 inserts new paragraphs 152A and 152B into schedule 6.
28. New paragraph 152A defines an exempt unlicensed electricity supplier as a person who has an exemption under the Electricity Act 1989 or the Electricity Supply (Northern Ireland) Order 1992.
29. New paragraph 152B defines a small generating station as a generator of not more than 2MW generating capacity and provides that, in determining whether a generating station is a small generating station, the capacity is considered to be the combined generating capacity of all generating stations, other than CHP stations and stand-by generators, owned by a person or connected persons.
30. Paragraph 19 makes consequential amendments to Regulation 5 of the Climate Change Levy (Electricity and Gas) Regulations 2001 by correcting the references to paragraphs in Schedule 6 that relate to “exempt unlicensed electricity supplier” as a result of changes made to Schedule 6 by this Schedule.
31. Paragraph 20 provides for Part 2 of this Schedule (paragraphs 2 - 21) to come into force on [31] March 2013.
32. Paragraph 21 provides that amendments made by paragraphs 6(2) and (3) of this Schedule are to have effect for the purpose of determining

if a supply of gas or electricity is exempt from levy where it is actually supplied on or after 1 April 2013 and, in the case of any other supply, whether it is exempt from levy where the supply is treated as taking place on or after 1 April 2013. It also provides that amendments made by paragraph 8 of this Schedule are to have effect for the purpose of determining if a supply of electricity is exempt from levy where it is consumed on or after 1 April 2013 and that amendments made by paragraph 10 of this Schedule have effect in relation to supplies of CPS commodities (coal, gas and LPG) brought on to or arriving at a site on or after 1 April 2013.

Part 3

Carbon price support rates from 1 April 2014

33. Paragraph 22 amends paragraph 42A of Schedule 6 to set out the CPS rates for the year commencing 1 April 2014.

Part 4

Carbon price support rates from 1 April 2015

34. Paragraph 23 amends paragraph 42A of Schedule 6 to set out the CPS rates for the year commencing 1 April 2015.

BACKGROUND

35. The CCL came into force on 1 April 2001 with the purpose of encouraging energy efficiency. The main primary legislation is set out in Schedule 6 to the Finance Act 2000. Among the exemptions from the tax are those for taxable commodities used in generating electricity.
36. In order to encourage new and additional investment in low-carbon power generation, the Government announced at Budget 2011 that, following consultation, it would introduce a carbon price floor from 1 April 2013, which it would achieve by amending CCL legislation (and fuel duty legislation for oils used in electricity generation since oils are not subject to CCL). Supplies of coal, gas and LPG used in most forms of electricity generation would become liable to newly created CPS rates of CCL, which would be different from the main CCL rates levied on consumers' use of these commodities (and of other solid fuels and electricity). The amount of fuel duty reclaimable on oil used in electricity generation would be adjusted to establish new CPS rates of fuel duty. The changes needed to fuel duty are all set out in separate secondary legislation and are not covered in this Schedule.

37. The Government believes that a carbon price floor will build upon the EU Emissions Trading System, which to date has not delivered a sufficiently high and stable carbon price to encourage the investment in low-carbon technology the UK needs to meet its legal obligations.
38. Schedule 20 to the Finance Act 2011 and Schedule 32 to the Finance Act 2012 amended Schedule 6 to provide for the setting up of the CPS rates. Following further informal consultation since Budget 2012 the need for further changes to carbon price floor legislation has been identified to meet industry concerns. These changes are set out in the Tax Impact and Information Note published on 11 December 2011. Since the changes would have necessitated significant amendments to the earlier legislation set out in Finance Acts 2011 and 2012 that had not yet come into force, the earlier legislation is being repealed and replaced by this Schedule. This will consolidate all primary legislation for the carbon price floor into this one Schedule.
39. If you have any questions about this change, or comments on the legislation, please contact Tim Smith on 020 7147 0573 (email: timothy.smith@hmrc.gsi.gov.uk).

2013 No. 1234

CLIMATE CHANGE LEVY

**The Climate Change Levy (General) (Amendment) Regulations
2013**

Made - - - - [25th March 2013]
Laid before the House of Commons [25th March 2013]
Coming into force - - 1st April 2013

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) and (4), 24D, 44(3) and (4), 62(1)(ba) and (bb), and 146 of Schedule 6 to, the Finance Act 2000(b):

Citation and commencement

1. These Regulations may be cited as the Climate Change Levy (General) (Amendment) Regulations 2013 and come into force on 1st April 2013.

Amendments to the Climate Change Levy (General) Regulations 2001

2. Amend the Climate Change Levy (General) Regulations 2001(c) as follows.

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

(a) in paragraph (1), after sub-paragraph (b), insert —

“(ba) after—

(i) a determination is made under Schedule 3 to these Regulations that a quantity, or a proportion of a quantity, of a carbon price support rate commodity is referable to the production of electricity, and

(ii) it is accordingly determined that the quantity or proportion of a quantity is a subject of a deemed supply under paragraph 24B of the Act,

(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 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)(ba) and (bb) were added by a resolution passed by the House of Commons on [] March 2013 under section 1 of the Provisional Collection of Taxes Act 1968 (c.2). This resolution has statutory effect but will cease to have effect once provisions corresponding to those in the resolution are enacted in the Finance Act 2013. In any case it will cease to have effect at the end of seven months after the date on which it is expressed to take effect or, if no such date is expressed, after the date on which it is passed. Relevant amendments to section 1 were made by section 60 of the Finance Act 1968 (c.44), section 205(5) of the Finance Act 1993 (c. 34), paragraph 1 of Schedule 7 to the Finance Act 2000 (c. 17). Paragraph 146 has been amended by section 188(2)(c) of the Finance Act 2003 and S.I. 2009/571, Schedule 1, paragraph 20(1) and (7).

(c) S.I. 2001/838; relevant amending instruments are S.I. 2003/604, 2005/1716, 2007/2903, 2011/684.

it is determined that the quantity or proportion of a quantity was not referable to the production of electricity;

(bb) after an amount is determined to be payable by way of CCL on a deemed supply under paragraph 24A or 24B(a) of the Act, it is determined that that amount is too high;”;

(b) in paragraph (2)—

(i) in sub-paragraph (a) after “(b)” insert “(bb)”;

(ii) at the end of sub-paragraph (a) omit “and”;

(iii) after sub-paragraph (a) insert—

“(aa) in relation to a case described by sub-paragraph (ba) of paragraph (1), the amount of CCL charged and paid on the quantity or proportion of a quantity of the commodity that has been determined as not referable to the production of electricity; and”.

4. In paragraph (1) of regulation 51A (interpretation of part 4A)—

(a) for “Schedules 1 and 2” substitute “Schedules 1 to 3; and

(b) for the definition of “CHPQA” substitute—

““ CHPQA” refers to the Combined Heat and Power Quality Assurance Standard, Issue 3, January 2009 originally published by the Department for Environment, Food and Rural Affairs (the “CHPQA Standard”) (including the later of version Final 1.0, 2.0 or 3.0 of CHPQA Guidance Notes 0 to 4 (including 2(S), 3(S), 4(S), 10 to 28 and 30);”.

5. In regulation 51G (CCL treatment dependent on certification)—

(a) in sub-paragraph (1)(b) for “, 17(3) and 17(4)” substitute “and 17(1A)”(b);

(b) omit sub-paragraph (2)(c);

(c) in sub-paragraph 2(d) for “17(3) or 17(4)” substitute “17(1A)”.

6. In regulation 51H (CCL treatment dependent on certification)—

(a) in sub-paragraph (1)(b) for “, 17(3) or 17(4)” substitute “or 17(1A)”;

(b) omit sub-paragraph (1)(c).

7. In Part 4A (combined heat and power stations), after regulation 51M insert—

“Input fuels referable to the production of electricity in combined heat and power stations

51N. Schedule 3 has effect for the purpose of determining the extent to which a quantity of a carbon price support rate commodity is referable to the production of electricity in a combined heat and power station.”.

8. In paragraph (1) of regulation 60 (penalties) after sub-paragraph “(hb)” insert—

“(hc) paragraph 3 of Schedule 3;”.

9. In paragraph 2 of Schedule 1 (certification and payment of CCL in the case of excluded, exempt and other supplies)—

(a) in the formula, for “0.65R” substitute “(r x R)”;

(b) after the definition of “M”, insert—

“r = 0.90 in the case of electricity, and in any other case 0.65.”;

(c) for “0.65R = 65% of”, substitute “R =”.

(a) Paragraphs 24A and 24B were inserted by the resolution referred to in footnote (b) above.

(b) Paragraph 17(1A) was inserted by the resolution referred to in footnote (b) on page 1.

10. In paragraph 2 of Schedule 2 (the CHP relief condition)—

- (a) in sub-paragraph (b), for “, 17(3) or 17(4)” substitute “17(1A)”;
- (b) omit sub-paragraph (c).

11. After Schedule 2 insert—

“SCHEDULE 3

Regulation 51N

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

Interpretation

1. In this Schedule—

“Annual Operation” means a period commencing on 1st January and finishing on 31st December;

“CHPQA certificate” has the same meaning as in the Climate Change Levy (Combined Heat and Power Stations) Exemption Certificate Regulations 2001(a);

“CHP Qualifying Heat Output” “CHP scheme” and “CHP Total Fuel Input” have the meaning given in section 4 of the CHPQA;

Calculation of fuels referable to the production of electricity

2.—(1) The extent to which a quantity of a carbon price support rate commodity is referable to the production of electricity in a combined heat and power station is to be determined in accordance with sub-paragraphs (2) to (4).

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

$$TFI - \frac{QHO}{\eta_{h,ref}}$$

Where—

TFI is the CHP Total Fuel Input for the station specified on the current CHPQA certificate relating to the station at the time the quantity of the carbon price support rate commodity is brought onto, or arrives at, the CHPQA site.

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

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

(3) Calculate the percentage of input fuels referable to the production of electricity in accordance with the following formula—

$$\frac{Q}{TFI} \times 100$$

Where—

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

TFI is the CHP Total Fuel Input for the station specified on the current CHPQA certificate relating to the station at the time the quantity of the carbon price support rate commodity is brought onto, or arrives at, the CHPQA site.

(4) Apply the percentage calculated in accordance with sub-paragraph (3) to the quantity of carbon price support rate commodities brought onto, or arriving at, the CHPQA site.

Compulsory review of calculation

3.—(1) This paragraph applies where a person (“P”)—

- (a) has accounted for CCL on a deemed supply under paragraph 24B of the Act; and
- (b) the quantity of the carbon price support rate commodity that was the subject of the deemed supply has been calculated in accordance with paragraph 2 of this Schedule.

(2) Where this paragraph applies P must review the correctness of that quantity—

- (a) in accordance with paragraphs 4 and 5; and
- (b) no later than a reconciliation day.

4.—(1) That correctness must be reviewed in relation to the CHP Total Fuel Input and the CHP Qualifying Heat Output for the relevant reconciliation span.

(2) In the case of a reconciliation span for an incompleting calendar year, treat the actual CHP Total Fuel Input and the CHP Qualifying Heat Output as determined for the 12 month period preceding the relevant reconciliation day and as if that period was an Annual Operation.

(3) For the purposes of sub-paragraphs (1) and (2)—

- (i) paragraph 9B of Schedule 1 to these Regulations has effect for the purposes of determining a reconciliation day and reconciliation span; and
- (ii) “incompleting calendar year” has the meaning given in that paragraph.

5. The review must properly take into account—

- (a) the quantities of carbon price support rate commodities that were the subject of deemed supplies; and
- (b) the quantities that ought to have been the subject of deemed supplies having regard to the actual CHP Total Fuel Input and CHP Qualifying Heat Output for the station in question for the reconciliation span in which the commodities were supplied.

6. If the review determines that the quantities of carbon price support rate commodities that were the subject of deemed supplies was too little paragraphs 24C and 38A(2)(a) of the Act apply accordingly.

7. If the review determines that the quantities of carbon price support rate commodities that were the subject of deemed supplies was too much P is entitled to a tax credit under Part II of these Regulations.”.

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

(a) Paragraphs 24C and 38A were inserted by the resolution referred to in footnote (b) on page 1.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st April 2013, amend the Climate Change Levy (General) Regulations 2001 (“the General Regulations”) (S.I. 2001/838) and are made following the introduction of carbon price support (CPS) rates of climate change levy (CCL) (“CPS rates”).

Paragraphs 24A and 24B of schedule 6 to the Finance Act 2000 (c. 17) (“the Act”) provide for deemed taxable self-supplies where fossil fuels (other than oil) are delivered to a generating station to be used in producing electricity in the station or are delivered to a combined heat and power (CHP) station and are referable to the production of electricity in the station. Paragraph 42A of the Act provides that these deemed supplies are subject to CPS rates.

Regulation 3 of this instrument amends regulation 11 of the General Regulations to entitle a registrable person who has overpaid the CPS rate of CCL on a deemed supply to reclaim the overpayment.

Regulation 4 amends regulation 51A of the General Regulations so that it applies to new Schedule 3 and updates the definition of “CHPQA” so that it refers to the latest version of the Standard.

Regulations 5, 6 and 10 make consequential amendments to regulations 51G and 51H of, and paragraph 2 of Schedule 2 to, the General Regulations following amendments made to paragraph 17 of the Act (exemption: self supplies by electricity producers).

Regulation 7 inserts new regulation 51N which introduces new Schedule 3 to the General Regulations.

Regulation 8 amends regulation 60 of the General Regulations to impose a civil penalty for failing to carry out a review required under new Schedule 3 of the correctness of the quantity of fossil fuels that is referable to the production of electricity in a CHP station.

Regulation 9 amends the CCL relief formula in paragraph 2 of Schedule 1 to the General Regulations as a consequence of the change to the rate of reduced-rates supplies of electricity (but not for reduced rate supplies of other taxable commodities).

Regulation 11 inserts new Schedule 3 which sets out the calculation for determining the extent to which a quantity of fossil fuels (other than oil) delivered to a CHP station is referable to the production of electricity in the station. It also sets out a compulsory review procedure and makes provision for tax credits and further deemed supplies in cases where the quantity determined in accordance with the calculation is subsequently found to be too much or too little.

A Tax Information and Impact Note covering this instrument was published on 11th December 2012 alongside draft clauses of the Finance Bill 2013 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 2013

2013 No. 1234

1. Introduction

This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the Statutory Instrument

This instrument amends the Climate Change Levy (General) Regulations 2001 (SI 2001/838) (“the principal Regulations”) as a consequence of: the introduction of a carbon price floor, which involves the introduction of new carbon price support rates (“CPS rates”) of climate change levy (CCL) on coal, gas and liquefied petroleum gas (LPG) used to generate electricity; and the change to the reduced rate of CCL to 10 per cent of the main CCL rate on electricity for supplies of electricity made to those businesses with climate change agreements. Both of these changes come into force on 1 April 2013.

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

[To be completed on final version.]

4. Legislative context

4.1 The European Council Directive 2003/96/EC on restructuring the Community framework for the taxation of energy products (gas, LPG, oils and solid fuels, such as coal) and of electricity establishes the general arrangements for the taxation of these products and electricity, including setting minimum tax rates for these products. While the Directive requires Member States to exempt energy products used in the generation of electricity from general taxation, it does allow them to tax such products for reasons of environmental policy. In addition, in the interests of protecting the environment, it authorises EU countries to grant tax advantages to businesses that take specific measures to reduce their emissions.

4.2 In relation to energy products other than oil, the United Kingdom (UK) implements this Directive through CCL, the main primary legislation for which is contained in Schedule 6 to the Finance Act 2000 (“Schedule 6”), as amended. Currently CCL levies a charge on supplies of energy products (other than oil, which is taxed under the fuel duty regime) and electricity to businesses and the public sector, but exempts a range of supplies, including supplies to persons who will use them to generate electricity. Schedule 6 also contains provisions for a reduced rate of CCL for participants in the climate change agreement scheme, which energy intensive businesses become eligible to pay if they enter into, and

meet, emissions reductions or energy efficiency targets agreed with the Department of Energy and Climate Change.

4.3 Schedule 20 to the Finance Act 2011 (“FA 11”) and Schedule 32 to the Finance Act 2012 (“FA 12”) amended Schedule 6 to provide for CPS rates of CCL from 1 April 2013. Schedule [x] to the Finance Act 2013 (“FA 13”) will make further amendments to Schedule 6 and consolidate all the primary legislation relating to the carbon price floor into this new Schedule.

4.4 For coal, gas and LPG, the carbon price floor will be achieved in part by the introduction in FA 13 of deemed taxable self-supplies where these fuels are delivered to a generating station to be used in producing electricity in the station or to a combined heat and power (CHP) station and are referable to the production of electricity in the station. Such deemed supplies are liable to the CPS rates of CCL.

4.5 Part 3 of Schedule 30 to FA 12 amended Schedule 6 to provide that the reduced rate of CCL for climate change agreement participants would be amended to 10 per cent from 1 April 2013 on participants’ use of electricity.

4.6 These Regulations amend the principal Regulations as a result of the changes described in paragraphs 4.3 to 4.5.

4.7 The carbon price floor will also apply to oil used to generate electricity. However, oils are not subject to CCL and the price floor on oil-fired electricity will be achieved through separate secondary legislation covering changes to fuel duty (see the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) (Amendments from Carbon Price Support) Regulations 2013). That legislation also comes into effect on 1 April 2013.

5. Territorial extent and application

This instrument applies to all of the UK.

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 In order to encourage new and additional investment in low-carbon power generation, the Government announced at Budget 2011, following consultation, that it would introduce a carbon price floor from 1 April 2013. Supplies of coal, gas and LPG used in most forms of electricity generation would become liable to newly created CPS rates of CCL, which would be different from the main CCL rates levied on consumers’ use of these commodities (and of other solid fuels and electricity). The amount of fuel duty reclaimable on oil used in electricity

generation would be adjusted to establish new CPS rates of fuel duty. The Government believes that a carbon price floor will build upon the EU Emissions Trading System, which to date has not delivered a sufficiently high and stable carbon price to encourage the investment in low-carbon technology the UK needs to meet its legal obligations.

7.2 FA11 contained the initial primary legislation, including the CPS rates of CCL for 2013-14. Budget 2012 announced some changes, including that, to incentivise CHP, supplies of fossil fuels to CHP stations would only be liable to the CPS rates where they are referable to the production of electricity – fuels used to produce other outputs (mainly heat) would be exempt.

7.3 The changes made by this instrument will allow the Commissioners for HMRC to administer the CPS rates of CCL. It introduces a new Schedule which sets out: the calculation for determining the extent to which a quantity of coal, gas or LPG delivered to a CHP station is referable to the production of electricity in the station; a requirement to review that calculation based on the actual performance of the station; and provision for tax credits and further deemed supplies that may arise as a result of that review.

7.4 This instrument also amends the CCL relief formula in Schedule 1 of the principal Regulations to reflect the reduced rate of CCL in respect of a supply of electricity being set at 10 per cent of the main rates of CCL from 1 April 2013 for participants in the climate change agreement scheme. This change was announced at Budget 2012 as part of a package to help manufacturing and the most energy-intensive businesses to remain competitive during the shift to a low-carbon economy, by reducing the cost of electricity.

- ***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 A consultation on introducing a carbon price floor was released on 16 December 2010 and the Government's response to the consultation published on 30 March 2011. The key points of the response included:

- the floor would start at £16 per tonne of carbon dioxide and increase to £30 per tonne of carbon dioxide by 2020; and
- demonstration projects and commercial carbon capture and storage plants would receive relief from the carbon price floor equivalent to the proportion of carbon dioxide captured and stored rather than emitted.

8.2 As a result of continuing consultation throughout 2011 and 2012, a number of changes and clarifications were announced to the carbon price floor in December 2012 to meet industry concerns, in particular to incentivise CHP. These include:

- Supplies of coal, gas or LPG (excluding deemed supplies) to CHP stations registered under the CHP Quality Assurance (CHPQA) Programme that are used to generate outputs that are good quality, will continue to be exempt from the main rates of CCL.
- The operator of a CHP with a generating capacity above 2 megawatts will be liable to account for the CPS rates of CCL on the proportion of deemed supplies of coal, gas or LPG used to generate electricity.
- When calculating the generating capacity for a CHP no account will be taken of other stations operated by the same person or any connected person. The generating capacity will be specific to each individual CHP scheme.
- CHP stations registered under the CHPQA Programme which burn oils will continue to be able to claim relief on oils used to generate outputs that are good quality. This relief will be reduced by the amount of the CPS rate in relation to the quantity of oil used to generate electricity.
- The proportion of the fuel input that is used to generate electricity will be calculated using the established boiler displacement method and will be shown on the station's CHPQA certificate.
- Output electricity from a good quality CHP will remain outside the scope of CCL when subject to a self or direct supply. Such supplies will remain partially exempt if the CHP does not meet good quality standards. The position for indirect supplies of electricity (those made via the Grid) was announced at Budget 2012.

8.3 The draft primary and secondary legislation relating to the carbon price floor was published in draft on 11 December 2012.

9. Guidance

Six public notices covering CCL are available at www.hmrc.gov.uk. A new public notice which deals exclusively with the carbon price floor will be published in spring 2013.

10. Impact

10.1 Around 150 fossil fuel electricity generators embedded into the National Grid and a large number of small electricity generators will incur the CPS rates on the fuels that they burn. For CHP plants, the threshold below which they will not be liable for CPS rates of CCL will be based upon their generating capacity at the scheme level rather than at the person level. This threshold will remove around 450 CHPs, owned by around 20 businesses, from these rates. This will result in the businesses affected not having to register for the CPS rates of CCL or make returns for these CHPs.

10.2 The total one-off familiarisation and information technology costs and continuing administration burdens for the affected businesses are estimated to be negligible.

10.3 There is no impact on the public sector.

10.4 A Tax Information and Impact Note covering the carbon price floor was published on 11 December 2012 alongside draft Finance Bill 2013 legislation and draft secondary legislation, including this instrument. It 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.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is a general tax provision and the same for all firms.

11.3 The basis for the final decision on what action to take to assist small business is described in paragraphs 7.1 to 7.4 above, so no such action is taken for this general tax provision.

12. Monitoring and review

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Excise, Customs, Stamps and Money Directorate of HMRC.

13. Contact

Tim Smith at HMRC Tel: 020 7147 0573 or e-mail: timothy.smith@hmrc.gsi.gov.uk can answer any queries regarding the instrument.

2013 No. 0000

EXCISE

**The Hydrocarbon Oil Duties (Reliefs for Electricity Generation)
(Amendments for Carbon Price Support) Regulations 2013**

Made - - - - [25th March 2013]

Laid before Parliament [25th March 2013]

Coming into force - - 1st April 2013

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by section 20AA(1)(a), (2)(a) to (g) and (h) 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 2013 and come into force on 1st April 2013.

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

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

2. Amend the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005(b) as follows.

3. In regulation 2 (interpretation)—

(a) after the definition of “fully exempt combined heat and power station” insert—

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- (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. 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; relevant amending instruments are 2007/2191 and 2008/753.

““outputs” has the meaning given by paragraph 148(9) of Schedule 6 to the Finance Act 2000(a);”

(b) in the definition of “exempt unlicensed electricity supplier” for “14(4)” substitute “152A(1)”; and

(c) in the definitions of “qualifying oil” and “relevant duty” after “11(1)” insert “, 13ZA”.

4. For paragraph (1) of regulation 3 (relief) substitute—

“(1) Relief is allowed in accordance with these Regulations if a quantity of qualifying oil or qualifying bioblend has been used to produce—

(a) electricity in a generating station; or

(b) the outputs of—

(i) a fully exempt combined heat and power station; or

(ii) a partly exempt combined heat and power station.”.

5. At the end of regulation 6 (amount of relief on qualifying oil or bioblend used to produce electricity in a generating station) after “paid” insert “less the relevant amount specified in Schedule 2 (Carbon Price Support Rates)”.

6. In paragraph (2) of regulations 7 and 11 (application for relief) for “the Schedule” substitute “Schedule 1”.

7. For the heading to Part 4, and regulations 9 (application of Part 4) and 10 (amount of relief) substitute—

“OUTPUTS OF A COMBINED HEAT AND POWER STATION

Application and interpretation of Part 4

9.—(1) This Part applies to relief allowed by regulation 3(1)(b).

(2) For the purposes of this Part—

(a) a station’s threshold efficiency percentage shall be 20 per cent;

(b) a station’s efficiency percentage is its power efficiency, as stated in its CHPQA certificate;

(c) “CHPQA” has the meaning given in regulation 2 of the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005(b);

(d) “CHPQA certificate” means a certificate issued in respect of a combined heat and power station following assessment of the station against criteria set out in the CHPQA; and

(e) “relevant annual operation” means the annual operation to which the application for relief relates.

Amount of relief

10.—(1) Except where paragraph (2) applies, and subject to paragraph (4), the amount allowed is the amount of relevant duty that has been charged and paid on qualifying oil or qualifying bioblend used to produce outputs of the station in the relevant annual operation.

(2) Where the efficiency percentage of the station is less than the threshold efficiency percentage of that station, the amount allowed is the duty that has been charged and paid on the relevant fraction of the qualifying oil or qualifying bioblend.

(a) 2000 c.17.

(b) S.I. 2005/1714.

- (3) For the purposes of paragraph (2), the relevant fraction is the fraction—
- (i) whose numerator is the efficiency percentage for the station, and
 - (ii) whose denominator is the threshold efficiency percentage for the relevant annual operation.

(4) Where a quantity of the qualifying oil or qualifying bioblend used to produce outputs of the station is referable to the production of 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).

(5) For the purposes of paragraph (4), the quantity of qualifying oil or qualifying bioblend that is referable to the production of electricity is such quantity as is determined by applying the percentage of total fuels referable to the production of electricity stated in the station’s CHPQA certificate to the quantity of qualifying oil or qualifying bioblend used to produce outputs of the station in the relevant annual operation.”.

8. In paragraphs (2)(a) and (3) of regulation 13 (general conditions), and paragraph (c) of the Schedule (particulars to be contained in the application), after “electricity” insert “or outputs of a combined heat and power station”.

9. Re-number the Schedule “Schedule 1” and, after that Schedule, insert—

“SCHEDULE 2 Regulations 6 and 10(4)

CARBON PRICE SUPPORT RATES

Fuel	1st April 2013 to 31st March 2014	1st April 2014 to 31st March 2015	On and after 1st April 2015
Qualifying oil on which a rebate has been allowed under section 11(1)(a), 13ZA(a) or 14(1) of the Hydrocarbon Oil Duties Act 1979 (HODA) (fuel oil, certain heavy oil used for heating etc. and light oil for use as furnace fuel)	£0.01568 per litre	£0.03011 per litre	£[0.03803] per litre
Qualifying oil on which a rebate has been allowed under section 11(1)(b) of HODA (gas oil) and qualifying bioblend	£0.01365 per litre	£0.02642 per litre	£[0.03336]per litre”

name
name

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

(a) Section 13ZA was inserted by the Finance Act 2008 (c. 9), Schedule 6, paragraph 28.

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”) which introduced a relief from excise duty for rebated oils used to produce electricity.

Regulation 3 inserts a definition of “outputs” in relation to a combined heat and power (CHP) station and amends the definition of “qualifying oil” to include heavy oil on which a rebate has been allowed under section 13ZA of the Hydrocarbon Oil Duties Act 1979. A consequential amendment is also made to the definition of “qualifying duty”.

Regulation 4 amends regulation 3 of the principal Regulations so that it applies to qualifying oil or qualifying bioblend used to produce outputs of a CHP station.

Regulation 5 reduces the amount of relief that is allowed on qualifying oil or qualifying bioblend used to generate electricity in a generating station by the Carbon Price Support rates specified in Schedule 2.

Regulation 6 makes consequential amendments to regulations 7 and 11 of the principal Regulations as a result of the re-numbering of the Schedule.

Regulation 7 re-names the heading to Part 4 of the principal Regulations and substitutes regulations 9 and 10 with new regulations 9 and 10.

New regulation 9 specifies the relief to which Part 4 applies and contains interpretation provisions.

New regulation 10 provides for relief on qualifying oil or qualifying bioblend used to produce outputs of a CHP station. The relief is scaled back according to the efficiency percentage of the station and, where a quantity of the oil or bioblend is referable to the production of electricity in the station (as determined in accordance with new regulation 10(5)), the amount of relief allowed is reduced by the Carbon Price Support rates specified in Schedule 2.

Regulation 8 makes consequential amendments to regulation 13 of, and the Schedule to, the principal Regulations.

Regulation 9 re-numbers the Schedule to the principal Regulations and inserts new Schedule 2 which specifies the Carbon Price Support rates.

A Tax Information and Impact Note covering this instrument was published on 11th December 2012 alongside draft clauses of the Finance Bill 2013 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 2013

1. Introduction

This explanatory memorandum has been prepared by HM Revenue & Customs (HMRC) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Statutory Instrument

This Statutory Instrument, which comes into force on 1 April 2013, amends the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (“the principal Regulations”) which introduced a relief from excise duty for rebated oils used to produce electricity. The purpose of this instrument is to reduce the amount of relief that is currently allowed on oils used to generate electricity in a generating station or combined heat and power (CHP) station so that such oils are subject to newly created carbon price support rates (“CPS rates”) of fuel duty from 1 April 2013.

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

[To be completed on final version.]

4. Legislative context

4.1 The European Council Directive 2003/96/EC on restructuring the Community framework for the taxation of energy products (gas, liquefied petroleum gas (LPG) oils and solid fuels, such as coal) and of electricity establishes the general arrangements for the taxation of these products, including setting minimum tax rates for these products. While the Directive requires Member States to exempt energy products used in the generation of electricity from general taxation, it does allow them to tax such products in these circumstances for reasons of environmental policy. In addition, in the interests of protecting the environment, it authorises EU countries to grant tax advantages to businesses that take specific measures to reduce their emissions.

4.2 In introducing the carbon price floor from April 2013, the United Kingdom (UK) has decided to take up the option in the Directive to allow Member States to subject energy products used in electricity generation to tax for reasons of environmental policy. The price floor will be achieved by taxing fossil fuels used in electricity generation through new CPS rates of climate change levy (CCL) and fuel duty.

4.3 In relation to oil, the UK implements this Directive through excise duty on hydrocarbon oils, the primary legislation for which is contained in the Hydrocarbon Oil Duties Act 1979, as amended. The principal Regulations enable

generators that use rebated heavy and light oils to generate electricity to reclaim the fuel duty paid on the oil when it leaves the refinery. They also contain details of the relief from fuel duty for oils used in a CHP station to generate electricity.

4.4 This instrument will amend the principal Regulations as a result of the introduction of the carbon price floor, to reduce the amount of relief from excise duty currently available on heavy and light oils used to generate electricity so that the amount of duty payable reflects the CPS rates of fuel duty.

4.5 The carbon price floor will also apply to coal, gas and LPG used to generate electricity. However, these fuels are not subject to fuel duty and the price floor on these fuels when they are used to make electricity will be achieved through separate legislation covering changes to CCL (see the Climate Change Levy (General) (Amendment) Regulations 2013). That legislation also comes into effect on 1 April 2013.

5. Territorial extent and application

This instrument applies to all of the UK.

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 In order to encourage new and additional investment in low-carbon power generation, the Government announced at Budget 2011 that, following consultation, it would introduce a carbon price floor from 1 April 2013. Supplies of fossil fuels used in electricity generation will become liable either to newly created CPS rates of CCL or fuel duty from that date. The Government believes a carbon price floor will build upon the EU Emissions Trading System which to date has not delivered a sufficiently high and stable carbon price to encourage the investment in low-carbon technology the UK needs to meet its legal obligations.

7.2 Budget 2012 announced some changes to the price floor, including that, to incentivise CHP, supplies of fossil fuels to CHP stations would only be liable to the CPS rates where they are referable to the production of electricity in the station – fuels used to produce other outputs (mainly heat) would be exempt.

7.3 This instrument will amend the existing excise relief for rebated oils used to generate electricity which was introduced from 1 January 2006. The relief was introduced to avoid double taxation and ensure consistency of treatment with other energy products used for the same purpose. In particular, the amount of relief allowed will be reduced, the effect of which will be that oils used to generate electricity in an electricity generating station or CHP station will become subject to CPS rates of fuel duty from 1 April 2013. In addition, oils

used in a CHP station that is registered under the CHP Quality Assurance (CHPQA) programme to generate non-electricity outputs that are good quality will be exempt from the CPS rates of fuel duty from the same date.

- ***Consolidation***

7.4 There is no intention to consolidate the amendments that have been made to the principal Regulations.

8. Consultation outcome

8.1 A consultation on the introduction of a carbon price floor was published on 16 December 2010 and the results of the consultation were published on 30 March 2011.

8.2 As a result of continuing consultation throughout 2011 and 2012, a number of changes and clarifications were announced to the carbon price floor in December 2012, in particular to incentivise CHP. CHP stations registered under the CHPQA Programme which burn oils will continue to be able to claim relief from fuel duty on oils used to generate outputs that are good quality. This relief will be reduced by the amount of the relevant CPS rate of fuel duty in relation to the quantity of oil used to generate electricity. In addition, the proportion of the fuel input that is used to generate electricity will be calculated using the established boiler displacement method and will be shown on the station's CHPQA certificate.

8.3 The draft primary and secondary legislation relating to the carbon price floor was published in draft on 11 December 2012.

9. Guidance

Public Notice 175, available at www.hmrc.gov.uk, will be updated in spring 2013 to take account of the changes being introduced by this instrument.

10. Impact

10.1 Around 40 electricity generators, including CHP stations, that use oil in electricity generation will incur CPS rates on their fuel input. The total one-off familiarisation and IT costs and continuing administration burdens for the affected businesses are negligible.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument was published on 11 December 2012 alongside draft Finance Bill 2013 legislation and secondary legislation covering the carbon price floor, including this instrument. It is available on the HMRC website at www.hmrc.gov.uk/thelibrary/tiins.htm. It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

The legislation applies to small business.

12. Monitoring and review

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Excise, Customs, Stamps and Money Directorate of HMRC.

13. Contact

Ann Little at HMRC, Tel: 020 7147 0655, e-mail: Ann.Little@hmrc.gsi.gov.uk can answer any queries regarding the instrument.