

Climate Change Levy: Change to the Reduced Rate on Electricity

Who is likely to be affected?

Gas and electricity utilities, suppliers of solid fuels and liquefied petroleum gas (LPG) and energy-intensive businesses with climate change agreements (CCAs).

General description of the measure

The measure amends the reduced rate of climate change levy (CCL) on electricity only from 35 to 10 per cent, with effect from 1 April 2013, rather than to 20 per cent as announced at Budget 2011. The measure will also correct a legislative omission made when changes were made to the reduced rate in Finance Act 2010.

Policy objective

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.

Background to the measure

The CCL is a tax on business energy use, with different tax rates for electricity, gas, solid fuels and liquefied petroleum gas. CCAs are voluntary agreements made with the Department of Energy and Climate Change that entitle participating facilities within energy-intensive sectors to pay a reduced rate of CCL in return for meeting challenging energy efficiency or carbon reduction targets.

Finance Act 2010 amended the reduced rate of the levy for those in CCAs from 20 to 35 per cent for all commodities that are liable to CCL, with effect from 1 April 2011. This was to ensure that the relief remains compliant with European state aid rules.

Following a consultation in 2010-11, the Government confirmed at Budget 2011 that a carbon price floor would be introduced on 1 April 2013. This will be achieved by taxing fossil fuels used in electricity generation under the existing CCL and fuel duty regimes. Supplies of fossil fuels used in most forms of electricity generation will become liable to CCL, charged at new carbon price support rates of CCL.

Budget 2011 announced that, to mitigate the impacts of the carbon price floor on energy intensive businesses while remaining in line with European State aid rules, the reduced rate of CCL on electricity only would be amended to 20 per cent from 1 April 2013.

The reduced rate of CCL on gas, LPG and solid fuels will remain at 35 per cent of the main CCL rates.

Detailed proposal

Operative date

These changes will have effect for supplies of electricity treated as taking place on and after 1 April 2013 apart from the correction to the omission to the reduced rate provisions included in Finance Act 2010, which will have retrospective effect for all taxable commodities from 1 April 2011.

Current law

Paragraph 42(1)(c) of Schedule 6 to the Finance Act 2000 provides for the CCL reduced rate. Paragraph 45A of Schedule 6 deals with circumstances in which a supply has been treated as a reduced rate supply but it is later determined that it should not have been, and specifies the amount payable by way of levy where too much CCL relief has been received.

Paragraph 2 of Schedule 1 to the Climate Change Levy (General) Regulations 2001 (SI 2001/838) sets out the formula used by businesses in CCAs to calculate their CCL relief entitlement.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to amend paragraph 42 of Schedule 6 to provide for the new reduced rate for electricity.

Finance Bill 2012 will also amend paragraph 45A of Schedule 6 to correct an omission in the Finance Act 2010 provisions which amended the reduced rate of CCL on all taxable commodities supplied on and after 1 April 2011. This will retrospectively change the amount of levy payable from this date from 80 per cent to 65 per cent where a supply was treated as a reduced rate supply but it is later determined that it should not have been. This provision in paragraph 45A will be further amended by Finance Bill 2012 from 1 April 2013 to reflect the revised reduced rate on electricity from that date.

Following Royal Assent to the Bill, secondary legislation will provide for amendment to the formula set out in the Climate Change Levy (General) Regulations 2001.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
	-	-	-15	-20	-20	-20
	These figures were set out in Table 2.1 of the Autumn Statement and have been certified by the Office for Budget Responsibility. More detail can be found in the policy costings document published alongside the Autumn Statement.					
Economic impact	This measure is not expected to have any significant economic impacts on its own.					
Impact on individuals and households	The CCL is not levied on the supply of energy to individuals and households so this measure will not have any direct impact on their energy bills. The reduction in business energy bills may be passed through to the prices paid by consumers for goods and services, with the degree of reduction likely to vary by sector.					
Equalities impacts	The proposed changes will affect energy-intensive businesses that pay CCL on their qualifying energy consumption. There will be no direct impact on individuals. As such, the Government expects that there will be no differential impact on different equality groups.					
Impact on business including civil society organisations	CCAs are available for up to 5,000 target units (a single facility or group of facilities) across 54 energy intensive sectors. CCA participants pay a reduced rate of CCL levied on electricity consumed by these facilities of 35 per cent. That rate was due to change to 20 per cent from April 2013 following an announcement in Budget 2011. As a result of this change the reduced rate for electricity will be 10 per cent from 1 April 2013, reducing electricity bills for these facilities. There will be some one-off familiarisation costs and administration costs					

	<p>associated with the change to the level of CCL discount for electricity. The total of these costs is negligible.</p> <p>The correction to the omission in the Finance Act 2010 should take effect before there is a chance for the omission to have a practical impact on relief recipients.</p>
Operational impact (£m) (HMRC or other)	Introducing a different level of reduced rate for electricity compared with other taxable commodities will result in negligible additional costs in administering the tax for HM Revenue & Customs.
Other impacts	This measure is not expected to have any other significant impacts.

Monitoring and evaluation

The measure will be kept under review through regular communication with taxpayer groups affected by the measure.

Further advice

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

Climate Change Levy: Metal Recycling Processes

Who is likely to be affected?

Suppliers of taxable commodities liable to account for the climate change levy (CCL) and recyclers of steel and aluminium.

General description of the measure

The measure will introduce a lower rate of 20 per cent of the full rates of CCL for supplies of taxable commodities used in recycling of steel and aluminium, from 1 April 2012. This is the equivalent of an 80 per cent discount on the full rates of levy.

The scope of the relief, the conditions for it and the method of administration will all be identical to what existed under the full exemption for supplies used in these recycling processes between 1 April 2001 and 31 March 2011.

The Government is implementing this 20 per cent rate while at the same time continuing to explore the potential for increasing the level of relief.

Policy objective

Relieving supplies of energy products used in the recycling of steel and aluminium from CCL reduces distortion of competition between supplies used in metal recycling and in primary production of these metals as the latter are already relieved from CCL.

Background to the measure

The CCL was introduced on 1 April 2001. Its purpose is to encourage energy efficiency in the business and public sectors and the take up of electricity from renewable sources.

When CCL was introduced one of the exemptions introduced for policy reasons benefited the primary production (the smelting from ores) of certain metals, including steel and aluminium. In order not to distort competition between the primary production of metals and the recycling of the same metals, taxable commodities used in the recycling processes for the same metals were also exempted from the levy.

The recycling exemption was originally approved by the European Commission in 2002 as a state aid. This approval expired on 31 March 2011 and the exemption was suspended from 1 April 2011 while the Government continued to seek a further period of approval. However, the Commission has not been persuaded that a further period of full exemption from the levy is justified. In November 2011, it approved as allowable state aid a six year relief from CCL for energy products used in the recycling of steel and aluminium, provided that recyclers pay 20 per cent of the full rates of levy.

Detailed proposal

Operative date

The 20 per cent lower rate will have effect for relevant supplies of taxable commodities made on or after 1 April 2012.

Current law

Schedule 6 to the Finance Act 2000 sets out the main primary legislation provisions for CCL. A table in paragraph 42 sets out the rates for each taxable commodity. Paragraph 18A of Schedule 6 provides for an exemption from CCL for supplies of taxable commodities used in metal recycling processes. Regulation 4 of, and Schedule 2 to, the Climate Change Levy (Fuel Use and Recycling Processes) Regulations 2005 (SI 2005/1715) prescribe the metal recycling processes to which the exemption applies.

Section 80 of the Finance Act 2011 gave HM Treasury a power, by order, to suspend the operation of paragraph 18A of Schedule 6 (thereby suspending the exemption). The exemption was suspended by the Climate Change Levy (Suspension of Recycling Exemption) Order 2011 (SI 2011/1023), with effect from 1 April 2011.

Part 3 of, and Schedule 1 to, the CCL (General) Regulations 2001 (SI 2001/838) provide for the supplier certification regime to apply to various reliefs from CCL (including, until 31 March 2011, the metal recycling processes exemption). This is the regime by which certain CCL reliefs are claimed by businesses and administered by energy suppliers.

Proposed revisions

Legislation will be introduced in Finance Bill 2012 to:

- repeal paragraph 18A of Schedule 6 and replace it with a provision for a 20 per cent lower rate with effect from 1 April 2012; and,
- to amend paragraph 42 of Schedule 6 to specify that a 20 per cent lower rate for taxable commodities used in the recycling of steel and aluminium is applicable to the full rates of levy shown in the table in that paragraph.

Secondary legislation will be introduced to amend part 3 of, and paragraph 2 of Schedule 1 to, the CCL (General) Regulations 2001 to enable energy suppliers to apply the lower rate to supplies of taxable commodities made to steel and aluminium recyclers.

Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	-	negligible	negligible	negligible	negligible
	This measure is expected to have a negligible impact on the Exchequer.				
Economic impact	Introducing a new lower rate is not expected to have significant economic impact.				
Impact on individuals and households	This measure will have no impact on individuals and households as the lower rate will only be available for steel and aluminium recycling processes.				
Equalities impacts	There should be no differential impact on different equality groups.				

<p>Impact on business including civil society organisations</p>	<p>The lower rate is likely to affect fewer than 30 recycling businesses.</p> <p>Steel and aluminium recyclers will need to provide new relief certificates to their energy suppliers. The cost of doing so is expected to be negligible.</p> <p>The administrative procedures for claiming the 20 per cent lower rate will operate in the same way as for businesses claiming the CCL exemption for metal recycling that had effect until its suspension on 1 April 2011. Since the exemption's suspension some businesses in the metal recycling sector have been paying the full rates of CCL on energy used in recycling. Others have been able to take advantage of the reduced rate that applies to businesses that have signed climate change agreements with the Department of Energy and Climate Change.</p> <p>In either case there will be a negligible administrative costs to these businesses of starting to use the administrative procedures again, most notably the one-off costs of submitting new supplier certificates to their energy suppliers.</p> <p>Aluminium and steel recyclers will need to present new supplier certificates to their energy suppliers showing the change in relief entitlement. This could result in some one-off costs but these are expected to be negligible.</p> <p>This change will not impact upon civil society organisations.</p>
<p>Operational impact (£m) (HMRC or other)</p>	<p>HM Revenue & Customs will incur negligible costs in establishing and administering the lower rate.</p>
<p>Other impacts</p>	<p><u>Small firms impact test:</u> Businesses with fewer than 20 employees are familiar with the procedures for claiming CCL reliefs and will have the capability to deal with any of the administrative issues that may arise.</p> <p><u>Wider environment impact:</u> The change will have a negligible environmental impact.</p>

Monitoring and evaluation

The measure will be kept under review through regular communication with affected taxpayer groups.

Further advice

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

1 Climate change levy

Schedule 1 makes provision about –

- (a) the amount payable by way of climate change levy on deemed supplies treated as taking place on or after 1 April 2011,
- (b) the application of the climate change levy to taxable supplies intended for use as fuel in recycling processes, and
- (c) the rates of climate change levy applicable to supplies treated as taking place on or after 1 April 2013.

SCHEDULE 1

Section 1

CLIMATE CHANGE LEVY

PART 1

REDUCED-RATE SUPPLIES ON OR AFTER 1 APRIL 2011: DEEMED SUPPLY

- 1 (1) In paragraph 45A(2)(b) of Schedule 6 to FA 2000 (reduced-rate supplies: deemed supply) for “80” substitute “65”.
- (2) The amendment made by this paragraph has effect in relation to a deemed supply if the actual supply in question was treated as taking place on or after 1 April 2011.

PART 2

TAXABLE SUPPLIES ON OR AFTER 1 APRIL 2012 FOR USE IN RECYCLING PROCESSES

- 2 Schedule 6 to FA 2000 (climate change levy) is amended as follows.
- 3 In paragraph 4(2)(b) (definition of taxable supply) for “45A” substitute “43B”.
- 4 In paragraph 5(3) (taxable supplies: deemed supplies of electricity) for “45A” substitute “43B”.
- 5 In paragraph 6(2A) (taxable supplies: deemed supplies of gas) for “45A” substitute “43B”.
- 6 In paragraph 14(3A)(a) (use of electricity in an “exemption-retaining” way) for “, 18 and 18A” substitute “and 18”.
- 7 Omit paragraph 18A (exemption: supply for use in recycling process).
- 8 In paragraph 34 (time of supply of commodities other than gas and electricity: deemed supplies) –
- (a) in sub-paragraph (1)(b), for “45A” substitute “43B”, and
- (b) in sub-paragraph (4), for “45A” substitute “43B”.
- 9 In paragraph 39(1)(c) (regulations as to time of supply) for “45A” substitute “43B”.
- 10 In paragraph 42 (amount payable by way of levy) –
- (a) in sub-paragraph (1) –
- (i) in paragraph (a) after “supply” (in the second place it occurs) insert “or a supply for use in scrap metal recycling”,
- (ii) in paragraph (c) for “were not a reduced-rate supply.” substitute “were a supply to which paragraph (a) applies;”, and
- (iii) after paragraph (c) insert –

- “(d) if the supply is a supply for use in scrap metal recycling, 20 per cent of the amount that would be payable if the supply were a supply to which paragraph (a) applies.”, and
- (b) after that sub-paragraph insert –

“(1ZA) If a taxable supply is both a reduced-rate supply and a supply for use in scrap metal recycling, the amount payable by way of levy on the supply under sub-paragraph (1) is the lower of the two amounts provided for that supply under that sub-paragraph.”

- 11 Before the cross-heading before paragraph 44 insert –

“Supplies for use in scrap metal recycling

- 43A (1) For the purposes of this Schedule, a taxable supply is a supply for use in scrap metal recycling if –
- (a) the person to whom the taxable commodity is supplied intends to cause the commodity to be used as fuel in a process (“the recycling process”) to be carried out by that person which is the shredding (or fragmentation), pre-treatment and melting of scrap metal for recycling, and
 - (b) the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that there is another process (“the competing process”) that –
- (a) uses taxable commodities otherwise than as fuel,
 - (b) produces a product of the same kind as one produced by the recycling process,
 - (c) uses a greater amount of energy than the recycling process to produce a given quantity of that product, and
 - (d) involves a lesser charge to levy for a given quantity of that product than would, but for paragraph 42(1)(d), be the case for the recycling process.
- (3) For the purposes of sub-paragraph (2)(a), taxable commodities are used “otherwise than as fuel” only if the supplies of those commodities to the person using them are exempted from the levy by virtue of paragraph 18.
- (4) Sub-paragraphs (5) and (6) apply where the recycling process or the competing process, as well as producing a product of the same kind as one produced by the other process (“the corresponding product”), also produces one or more products that are not (“different products”).
- (5) If the production of the different products is merely incidental to the production of the corresponding product, the different products are to be treated for the purposes of sub-paragraph (2)(c) and (d) as being of the same kind as the corresponding product.
- (6) If the production of the different products is not merely incidental to the production of the corresponding product –
- (a) the amounts of energy referred to in sub-paragraph (2)(c), and the amounts of the charge to levy referred to in sub-

- paragraph (2)(d), are to be determined on a just and reasonable apportionment, and
- (b) in calculating the amount payable by way of levy on the taxable supply, only the proportion of the supply that is the same as the proportion of the energy used by the recycling process to produce the corresponding product (as determined for the purposes of paragraph (a)) is to be treated as being a supply for use in scrap metal recycling.
- (7) In this paragraph –
- “melting” means –
- (a) the pre-heating and first melting of scrap metal before casting into items (“intermediates”) for further processing or re-melting, or
- (b) the heating of scrap metal as part of the recycling process before any solidification and re-melting, but excluding the melting of any metal which is not scrap but which is added at any stage to improve the quality or adjust the composition of the recycled metal or intermediates, and
- “metal” means aluminium or steel.
- (8) The Commissioners may by regulations make provision for giving effect to this paragraph.
- (9) Regulations under this paragraph may, in particular, include provision for determining whether or not a taxable supply is a supply for use in scrap metal recycling (to any extent).

Supplies for use in scrap metal recycling and reduced-rate supplies: deemed supply

- 43B (1) This paragraph applies where –
- (a) a taxable supply (“the original supply”) has been made to any person (“the recipient”),
- (b) the original supply was made on the basis that it was, to any extent, a supply for use in scrap metal recycling or a reduced-rate supply,
- (c) it is later determined that the original supply was (or was to some extent) a different kind of supply, and
- (d) the amount payable on the supply on the basis mentioned in paragraph (b) is less than the amount payable on the supply on the basis of the later determination.
- (2) For the purposes of this Schedule –
- (a) the recipient is deemed to make a taxable supply to itself of the taxable commodity, and
- (b) the amount payable by way of levy on that deemed supply is –
- (i) the amount payable on the original supply on the basis of the later determination mentioned in sub-paragraph (1)(c), less
- (ii) the amount payable on the original supply on the basis mentioned in sub-paragraph (1)(b).

- (3) This paragraph does not apply where a supply is treated as not being a reduced-rate supply by virtue of paragraph 45B.”
- 12 Omit paragraph 45A (reduced-rate supplies: deemed supply).
- 13 After paragraph 62(1)(c) (tax credits) insert –
- “(ca) after a taxable supply has been made on the basis that it was not a supply for use in scrap metal recycling, it is determined that the supply was (to any extent) a supply for use in scrap metal recycling;
 - (cb) after a taxable supply has been made on the basis that it was (to an extent) a supply for use in scrap metal recycling, it is determined that the supply was such a supply to a greater extent than previously determined;”.
- 14 In paragraph 101(2)(a) (penalty for incorrect notification) –
- (a) in sub-paragraph (ii) omit “, 18A”, and
 - (b) before sub-paragraph (iv) insert –
 - “(iia) a supply (or supplies) for use in scrap metal recycling;”.
- 15 In paragraph 146(3) (regulations subject to affirmative resolution procedure) omit “, 18A”.
- 16 In paragraph 147 (interpretation) –
- (a) in the definition of “prescribed”, omit “, 18A”, and
 - (b) insert at the appropriate place –
 - ““supply for use in scrap metal recycling” has the meaning given by paragraph 43A(1);”.
- 17 Omit section 188 of FA 2003 (climate change levy: exemption for fuel used in recycling process).
- 18 (1) FA 2011 is amended as follows.
- (2) In section 79 (which provides for a lower rate of CCL for Northern Ireland gas supplies treated as taking place before 1 November 2013), in subsection (2) –
- (a) omit the “and” after paragraph (b), and
 - (b) after that paragraph insert –
 - “(ba) the supply is not a supply for use in scrap metal recycling (within the meaning of that Schedule (see paragraph 147)), and”.
- (3) Omit section 80 (power to suspend exemption for supplies used in recycling process).
- 19 The amendments made by paragraphs 2 to 18 have effect in relation to supplies of taxable commodities so far as the commodities are actually supplied on or after 1 April 2012.

PART 3

RATES OF CLIMATE CHANGE LEVY FOR SUPPLIES ON OR AFTER 1 APRIL 2013

- 20 In paragraph 42(1) of Schedule 6 to FA 2000 (amount payable by way of levy) (as amended by paragraph 10(a) above) –

- (a) before paragraph (c) insert –
- “(ba) if the supply is a reduced-rate supply of electricity, 10 per cent of the amount that would be payable if the supply were a supply to which paragraph (a) applies;”,
- (b) in paragraph (c), for “a” (in the first place it occurs) substitute “any other”, and
- (c) for the table substitute –
- “TABLE

<i>Taxable commodity supplied</i>	<i>Rate at which levy payable if supply is not a reduced-rate supply or a supply for use in scrap metal recycling</i>
Electricity	£[] per kilowatt hour
Gas supplied by a gas utility or any gas supplied in a gaseous state that is of a kind supplied by a gas utility	£[] per kilowatt hour
Any petroleum gas, or other gaseous hydrocarbon, supplied in a liquid state	£[] per kilogram
Any other taxable commodity	£[] per kilogram”.

- 21 In paragraph 43B(1) of Schedule 6 to FA 2000 (supplies for use in scrap metal recycling and reduced-rate supplies: deemed supply) (as inserted by paragraph 11 above), for paragraph (b) substitute –
- “(b) the original supply was made on the basis that it was, to any extent –
- (i) a supply for use in scrap metal recycling,
- (ii) a reduced-rate supply of electricity, or
- (iii) a reduced-rate supply of any other taxable commodity,”.
- 22 In section 79 of FA 2011 (which provides for a lower rate of CCL for Northern Ireland gas supplies treated as taking place before 1 November 2013), in subsection (3)(a), for “£0.00062” substitute “£[]”.
- 23 The amendments made by paragraphs 20 to 22 have effect in relation to supplies treated as taking place on or after 1 April 2013.

EXPLANATORY NOTE

CLIMATE CHANGE LEVY

SUMMARY

1. This Schedule is split into three parts.
2. Part 1 retrospectively amends Schedule 6 to the Finance Act (FA) 2000 (“Schedule 6”) to provide that the amount of climate change levy (CCL) payable on a supply that has been treated as a reduced rate supply, but which it is later determined should not have been, is 65 per cent with effect from 1 April 2011.
3. Part 2 amends Schedule 6 by replacing the suspended exemption from the CCL for taxable commodities used in metal recycling processes with a 20 per cent lower rate from 1 April 2012.
4. Part 3 amends the rates of levy set out in Schedule 6, including the reduced rate on supplies of electricity and the lower rate for Northern Ireland gas supplies, with effect from 1 April 2013.

DETAILS OF THE SCHEDULE

5. Paragraph 1 amends the figure set out in paragraph 45A(2)(b) of Schedule 6 (which deals with circumstances in which a supply has been treated as a reduced rate supply but which it is later determined should not have been) from “80” to “65” with retrospective effect from 1 April 2011. The effect is that the amount payable by way of levy on such supplies is 65 per cent from that date.
6. Paragraph 2 provides for the amendment of Schedule 6.
7. Paragraphs 3, 4, 5, 8 and 9 make consequential amendments to paragraphs 4, 5, 6, 34 and 39 of Schedule 6 respectively as a result of the omission of paragraph 45A from, and the addition of new paragraph 43A to, Schedule 6.
8. Paragraph 6 amends paragraph 14(3A)(a) of Schedule 6 to remove the reference to the exemption for supplies used in recycling processes.
9. Paragraph 7 removes paragraph 18A of Schedule 6 to repeal the exemption for supplies used in recycling processes.
10. Paragraph 10 amends paragraph 42 of Schedule 6 to clarify that the full rates of levy will not apply to supplies for use in scrap metal

recycling. It also inserts new subparagraph (1ZA) into the same paragraph to provide that where supplies are both reduced rate supplies and eligible for the new lower rate by virtue of being for use in scrap metal recycling, the amount of levy payable is the lower of the two rates.

11. Paragraph 11 inserts new paragraphs 43A and 43B into Schedule 6.
 - a. New paragraph 43A specifies the conditions for determining whether a supply is for use in scrap metal recycling, including the requirement for a competing process that is eligible for exemption under paragraph 18 of Schedule 6, the limitation that “metal” means only aluminium and steel, and the limitation that recycling includes only the preparation, pre-heating and first melting of the metal.
 - b. New paragraph 43B provides that where an excess of relief has been received the recipient is deemed to have made a taxable supply to itself and must account for the levy due on that supply.
12. Paragraph 12 omits paragraph 45A of Schedule 6 (reduced-rate supplies: deemed supply) because the deemed supply provisions in new paragraph 43B apply to both reduced-rate supplies and supplies used in scrap metal recycling.
13. Paragraph 13 inserts new paragraphs (ca) and (cb) into paragraph 62(1)(c) of Schedule 6 providing that a relief recipient may claim a tax credit where too little levy relief was received.
14. Paragraph 14 removes the reference to paragraph “18A” in paragraph 101(2)(a) of Schedule 6 as a consequence of the repeal of the exemption, and adds new subparagraph (iia) to that paragraph to provide that the recipient of the supply will be liable to a penalty where the certificate given to their supplier claiming the lower rate was, or becomes, incorrect.
15. Paragraph 15 removes the reference to paragraph “18A” in paragraph 146(3) of Schedule 6, which deals with the making of regulations, as a consequence of the repeal of the exemption for supplies for use in recycling processes.
16. Paragraph 16 removes the reference to paragraph “18A” in paragraph 147 of Schedule 6, which deals with interpretation, and inserts a reference to new paragraph 43A(1).
17. Paragraph 17 repeals section 188 of FA 2003, which introduced the exemption for supplies for use in recycling processes.

18. Paragraph 18 inserts a reference to metal recycling in section 79(2) of FA 2011 to provide that, where the supply takes place in Northern Ireland, the lower rate for supplies for use in recycling processes takes precedence over the lower rate for supplies of gas. It also repeals section 80 of FA 2011, which suspended the exemption.
19. Paragraph 19 provides for the amendments made by paragraphs 2 to 18 of this Schedule to come into effect for supplies of taxable commodities made on or after 1 April 2012.
20. Paragraph 20 amends paragraph 42 of Schedule 6 (amount payable by way of climate change levy). It inserts a new subparagraph (ba) into subparagraph (1) to provide for the level of CCL payable on reduced-rate supplies of electricity only to be 10 per cent. It also replaces the table of rates and makes consequential amendments.
21. Paragraph 21 amends the deemed supply provisions in paragraph 43B of Schedule 6 in consequence of the introduction of the new reduced rate for supplies of electricity.
22. Paragraph 22 amends section 79(3)(a) of FA 2011 to revise the rate of CCL applying to gas supplies in Northern Ireland before 1 November 2013 from £0.00062 to £[x.xxxxx] per kilowatt hour.
23. Paragraph 23 provides for the changes in paragraphs 20 to 22 of this Schedule to have effect for supplies treated as taking place on or after 1 April 2013.

BACKGROUND NOTE

24. CCL came into effect in April 2001. It is a tax on the non-domestic (i.e. business, service and public sector) use of energy (gas, electricity, liquefied petroleum gas and solid fuels), and is aimed at promoting energy efficiency and the use of renewable energy, in order to help meet the UK's international and domestic targets for cutting emissions of greenhouse gases.

Rates, including the reduced rate

25. Since the CCL rates were increased in 2007 they have kept pace with inflation so that the levy maintains its environmental effect. On each occasion that the rates have increased the changes have been legislated for in the previous year's FA.
26. Climate Change Agreements (CCAs) were introduced alongside the levy in recognition of the levy's impact on the competitiveness of energy-intensive sectors of industry. They are voluntary agreements made between the Department of Energy and Climate Change and sector associations and their members. The agreements entitle

participating facilities to pay a reduced rate of levy in return for meeting challenging targets for improving energy efficiency or reducing emissions.

27. The reduced rate of CCL, which is currently 35 per cent for supplies of all taxable commodities, is claimed by facilities in the CCA scheme. This Schedule provides for the level of CCL payable on reduced-rate supplies of electricity to be amended to 10 per cent from 1 April 2013. This amendment to the reduced rate will help mitigate the impacts of the carbon price floor (an extension of CCL and fuel duty to fossil fuels used to generate electricity from April 2013) on energy-intensive industry.
28. FA 2011 introduced a new lower rate of CCL on supplies of gas in Northern Ireland between 1 April 2011 and 31 October 2013, set at 35 per cent of the full rate of CCL on gas. The amendment introduced by this Schedule to the main CCL rate for gas from 1 April 2013 necessitates an increase to the lower rate on gas in Northern Ireland from the same date in order to maintain the differential.

Retrospective change to paragraph 45A of Schedule 6

29. Until 1 April 2011, paragraph 42 of Schedule 6 provided that, if a supply was a reduced rate supply, the amount payable by way of levy was 20 per cent of the amount that would be payable if it was not a reduced rate supply. This figure was amended from 20 to 35 per cent by section 18 of FA 2010.
30. Paragraph 45A of Schedule 6 deals with circumstances in which a supply has been treated as a reduced rate supply but it is later determined that it should not have been. Under this paragraph a relief recipient that has claimed too much relief is deemed to have made a taxable supply to himself. When the reduced rate was amended from 20 to 35 per cent from 1 April 2011 the figure of 80 per cent in paragraph 45A should have been amended to 65 per cent. Paragraph 1 of this Schedule corrects that omission with retrospective effect to ensure that affected relief recipients are not required by law to pay more levy from 1 April 2011 than was intended when the reduced rate change was originally made.

Metal recycling processes

31. Certain supplies of taxable commodities used in the primary production of aluminium and steel have benefited from exemption since the levy's introduction because they are not being used as fuels or there is a dual use. In order that the exemption did not distort trade with competing recycling processes, an exemption was also granted for the use of taxable commodities in certain aluminium and steel

recycling processes. The exemptions applied only to processes up to the production of crude metal. Taxable commodities used thereafter in all forms of production are subject to the levy.

32. The exemption for taxable commodities used in recycling processes was a State aid which required the approval of the European Commission. This approval expired on 31 March 2011 and the Government suspended the exemption by Treasury Order while it continued discussions with the Commission to secure State aid approval for a further period of exemption. Owing to concerns the Commission expressed about the possible impact on European competition, the UK agreed to a 20 per cent lower rate rather than a full exemption. It is intended that the lower rate will be introduced on 1 April 2012.
33. If you have any questions about this change or comments on the legislation please contact Cathy Smith on 020 7147 0668 (email: cathy.smith2@hmrc.gsi.gov.uk).