

# Climate Change Levy: Electricity Produced In Combined Heat and Power Stations

---

## Who is likely to be affected?

Operators of fully-exempt or partly-exempt combined heat and power (CHP) stations, electricity utilities that make supplies of electricity generated in such stations, and business and public sector consumers of such electricity.

## General description of the measure

Budget 2011 announced the ending of the exemption from climate change levy (CCL) for electricity produced in a CHP station that is supplied by an electricity utility indirectly to an energy consumer ('the CCL CHP indirect supplies exemption').

Legislation will be introduced in Finance Bill 2012 to provide that regulators will no longer issue levy exemption certificates (LECs) for electricity generated in a CHP station from 1 April 2013. Electricity utilities will be able to continue to allocate CHP LECs that they acquired relating to CHP generation made before 1 April 2013, but only for a limited number of years. This will give them time to use up their stocks, while ensuring that CHP electricity generated after 1 April 2013 does not benefit from exemption from CCL. The Government will announce the length of this transitional relief at Budget 2012.

This measure will also provide for transitional arrangements, for example to deal with reconciling provisional allocations of LECs with those due in practice. It will also reinstate certain arrangements that existed before the introduction of CHP LECs in 2003.

## Policy objective

The objective of this change is to ensure that Government support for CHP through the tax system is more direct than at present, and thereby provides both greater certainties over the long term for business and better value for money for taxpayers.

## Background to the measure

When CCL was introduced in 2001, CHP-generated electricity supplied directly to a final consumer (including self-supplies) was exempted. In April 2003, to encourage greater CHP electricity generation, this exemption was extended to "indirect supplies", those made via an electricity utility to an energy consumer. CHP-generated electricity is electricity that has been produced in a CHP station meeting the criteria set out in the CHP Quality Assurance (CHPQA) Standard run by the Department of Energy and Climate Change (DECC). Under the CHPQA Standard, a CHP station is certified as being either fully- or partly-exempt for the purposes of CCL.

Once electricity enters the national grid, the technology used to generate that electricity is no longer distinguishable. As a result of the extension of the CCL exemption to indirect supplies in 2003, the CHP LEC regime was introduced to provide evidence that CHP electricity had been generated. CHP LECs are issued by the regulators of the regime: the Office of Gas and Electricity Markets Authority (Ofgem) and the Northern Ireland Authority for Utility Regulation (NIAUR). Utility companies buy LECs from CHP generators. When the utility company supplies electricity to the final consumer under a contract that contains a CHP declaration, they are entitled to apply the CCL exemption to those supplies. They notify the regulator of the LECs associated with that supply and redeem them.

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 (apart from oils) used in most forms of electricity generation will become liable to CCL, while oils used in electricity generation will no longer be fully relieved of fuel duty. In both cases, supplies will be charged at new carbon price support rates.

The Government reviewed its support for CHP under the tax system in the light of the proposed introduction of the carbon price floor and the expiry on 31 March 2013 of state aid approval for the CCL CHP indirect supplies exemption. Budget 2011 announced that from 1 April 2013:

- the indirect supplies exemption would end, meaning that no new LECs would be issued for CHP electricity generated after that date; and,
- fossil fuels used to generate electricity in a CHP plant registered under the CHPQA programme as either fully- or partly-exempt would, subject to state aid approval, be liable to lower carbon price support rates of CCL and fuel duty.

The efficiency of a CHP, and therefore the proportion of 'qualifying' electricity generated, is determined retrospectively at the end of the year by DECC, who issue an annual CHPQA certificate to CHP operators. The regulators of the LEC system use this retrospective data to allocate CHP LECs provisionally for the year ahead. Once a new certificate has been issued providing accurate data for the year gone by, the regulator undertakes a reconciliation exercise between the provisional allocation of CHP LECs and those actually due. They will then either issue additional LECs or withhold further LECs to make good the difference. From 1 April 2013 these arrangements will cease in their current form as no new CHP LECs will be issued.

LECs are necessary for the administration of the CCL exemption for indirect supplies of CHP-generated electricity made by utilities. There is no change to the levy-exempt status of direct supplies of CHP electricity to the final consumer, including self-supplies.

## **Detailed proposal**

### **Operative date**

The regulators will not issue LECs to electricity generators for electricity generated in a CHP station from 1 April 2013. Electricity utilities will be able to continue to allocate CHP LECs that they acquired on CHP electricity generation made before 1 April 2013, but only for a limited number of years.

### **Current law**

The CCL CHP indirect supplies exemption is contained in paragraph 20A of Schedule 6 to the Finance Act 2000 ('Schedule 6').

To cater for variations in supply and demand, paragraph 20B of Schedule 6 enables electricity utilities to match the acquisition of CHP electricity with supplies that are exempt from CCL because they were made under the terms of a contract that contains a CHP declaration. The matching is carried out over quarterly periods with the facility to carry forward credit and debit balances to subsequent periods.

A credit occurs where acquisition in a period exceeds supply. A debit occurs where supply exceeds acquisition. A credit can be carried forward continuously until the electricity utility stops making supplies under the terms of CHP source contracts. A continuous debit can be

carried forward for a maximum of two years at which point the electricity utility must account to HMRC for the CCL shortfall.

As CHP electricity can be supplied to a consumer either directly by the generator or indirectly by an electricity utility, paragraph 149A of Schedule 6 enables HMRC to allow Ofgem and NIAUR to certify that a quantity of electricity has been produced in either a fully-exempt CHP station; or in a partly-exempt CHP station and then supplied from the station without causing its qualifying limit to be exceeded.

Part IV(A) of and Schedule 2 to the Climate Change Levy (General) Regulations 2001 (SI 2001/838) ('the general regulations') provide for electricity produced in either a fully-exempt CHP station or a partly-exempt CHP station to be certified as such by the regulators in circumstances where any of that electricity produced will be the subject of an indirect supply. The general regulations also make provision for other requirements, including record-keeping and LEC reconciliation.

The Climate Change Levy (Combined Heat and Power Stations) Regulations 2005 (SI 2005/1714) ('the CHP regulations') relate to the reliefs from CCL that may apply in respect of certified CHP stations. They apply to both the exemption for supplies of leviable fuel to such station; and, in relation to the output electricity of a station, the circumstances in which a full CHP exemption certificate will be issued. Where a part exemption certificate is issued, they also set the limit of the electricity that may be supplied exempt from CCL.

### Proposed revisions

Paragraphs 20A, 20B and 149A of Schedule 6 will be repealed by provisions in Finance Bill 2012 from a day to be appointed by HM Treasury. Where an electricity utility has a credit balance at 31 March 2013 relative to the provisions of paragraph 20B of Schedule 6, it will be able to continue to make CCL exempt supplies in order use up that credit balance but only for a limited number of years. The Government will announce the length of this transitional relief at Budget 2012.

The general regulations will be amended to provide that electricity produced in either a fully- or partly-exempt CHP on or after 1 April 2013 will not be the subject of a CHP LEC. They will also be amended to introduce transitional LEC reconciliation requirements on the regulators as a result of the phasing out of CHP LECs.

The CHP regulations will be amended so that the efficiency percentage achieved by a CHP station relative to the threshold efficiency percentage will also apply for defining the extent to which reduced carbon price support rates of CCL are applicable; and also for the purposes of calculating the limit on the quantity of electricity that may be produced in and supplied direct from a partly-exempt CHP station exempt from CCL to reinstate the arrangements that existed before the introduction of CHP LECs in 2003.

### Summary of impacts

Exchequer impact (£m)	2011-12	2012-13	2013-14	2014-15	2015-16
	The Exchequer impact will depend on how long electricity utilities will be allowed to continue redeeming CHP LECs, which will be set out at Budget 2012.				
<b>Economic impact</b>	There will be no significant wider economic impacts as a result of these changes.				
<b>Impact on individuals and households</b>	CCL is not chargeable on supplies to individuals and households, so they will not be impacted.				

<b>Equalities impacts</b>	The proposed changes will affect businesses and other organisations that obtain CHP-generated electricity from an electricity utility that has to pay CCL. There will be no direct impact on individuals. As such, the Government expects that there will be no differential impact on different equality groups.
<b>Impact on business including civil society organisations</b>	<p>CHP stations will no longer receive a premium tariff for their electricity sold to electricity utilities, which those utilities may pass on to business or public sector electricity consumers. However, it is envisaged that the lower carbon price support rates applicable to the CHP sector will broadly achieve the same benefit. There will be a negligible one-off and continuing administrative saving to CHPs as they no longer have to obtain and allocate LECs.</p> <p>Electricity utilities will have to start accounting for CCL on supplies to business and public sector consumers once they have used up any credit balance of LECs left over after April 2013 and consumers of such electricity will incur CCL on those supplies. However, it is envisaged that the lower carbon price support rates applicable to CHP will mean the impact on consumers will be negligible.</p>
<b>Operational impact (£m) (HMRC or other)</b>	<p>HMRC costs are estimated to be negligible and would fall as part of the existing operational cost of administering CCL.</p> <p>The costs of the regulators involved, Ofgem and NIAUR, are expected to reduce by approximately £100,000 a year.</p>
<b>Other impacts</b>	<p><u>Carbon assessment:</u> Small benefits may come from reduced carbon emissions through energy efficiencies and environmental benefits of CCL. Removal of the exemption may reduce the incentive for large-scale CHP to export excess electricity, but consumers incurring CCL may marginally reduce their consumption.</p> <p><u>Small firms impact test:</u> Some small businesses may be affected by the proposals insofar as the transitional compliance costs might represent a slightly higher burden relative to larger businesses as a percentage of their fixed operating costs. However, arrangements for the smaller businesses should be less complex than those of larger businesses. This should mean that less time is spent on the transitional compliance burdens and therefore they would not be expected to incur any material disadvantage implementing this change relative to larger businesses.</p>

### Monitoring and evaluation

The measure will be kept under review through regular communication with affected taxpayer groups. HMRC will also work closely with Ofgem and NIAUR to monitor the redemption of electricity utility LEC holdings.

### 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: electricity produced in combined heat and power stations**

- (1) Paragraph 20A of Schedule 6 to FA 2000 (electricity produced in combined heat and power stations) is amended as follows.
- (2) In sub-paragraph (1) –
  - (a) omit the “and” after paragraph (c), and
  - (b) after paragraph (d) insert “, and
  - (e) the electricity is actually supplied before [...]”
- (3) In sub-paragraph (4)(a) –
  - (a) in sub-paragraph (i), after “station” insert “before 1 April 2013”, and
  - (b) in sub-paragraph (ii), after “station”, in the first place it occurs, insert “before 1 April 2013”.
- (4) The following repeals are made in consequence of subsections (1) to (3).
- (5) Omit paragraphs 20A and 20B of Schedule 6 to FA 2000.
- (6) In paragraph 24(2) of that Schedule –
  - (a) omit “or 20A”,
  - (b) omit “or in combined heat and power stations”, and
  - (c) omit “or 20B”.
- (7) Omit paragraph 149A of that Schedule.
- (8) Omit sections 123 and 124 of FA 2002.
- (9) Omit section 193(3) and (5) of FA 2003.
- (10) The repeals made by subsections (4) to (9) come into force on the day appointed by the Treasury by order made by statutory instrument.

**EXPLANATORY NOTE**

**CLIMATE CHANGE LEVY: ELECTRICITY PRODUCED IN  
COMBINED HEAT AND POWER STATIONS**

**SUMMARY**

1. This clause provides for the ending of the exemption from climate change levy (CCL) for electricity produced in either a fully exempt or a partly exempt combined heat and power (CHP) station that is supplied by an electricity utility to an energy consumer, with effect from 1 April 2013. As a result of this clause and regulations to be laid later in 2012, any electricity acquired by an electricity utility from a generator after that date will not be eligible for the exemption. However, if the electricity was generated in an eligible CHP station before that date and equivalent amounts of electricity are supplied to a final energy consumer, an electricity utility will be able to exempt the supply up to a date to be announced at Budget 2012.

**DETAILS OF THE CLAUSE**

2. Subsection (1) provides for the amendment of paragraph 20A of Schedule 6 to the Finance Act 2000 (“Schedule 6”).
3. Subsection (2) amends paragraph 20A(1) to insert new sub-paragraph (e) to provide that the exemption relates only to electricity actually supplied before [date to be announced at Budget 2012].
4. Subsection (3) amends paragraph 20A(4)(a) to provide that for the purposes of paragraphs 20A and 20B of Schedule 6, only electricity produced in either a fully exempt or a partly exempt CHP before 1 April 2013 is considered CHP electricity for the purposes of this exemption.
5. Subsection (4) provides for consequential repeals needed as a result of the amendments made by subsections (1) to (3). These are set out in subsections (5) to (9).
6. Subsection (10) makes provision for the repeals made by subsections (4) to (9) to come into force on the day appointed by HM Treasury in a statutory instrument.

**BACKGROUND NOTE**

7. When the CCL was introduced in 2001 CHP-produced electricity supplied directly from the station that produced it to a final energy consumer (including self-supplies) was exempt. In April 2003, to encourage greater CHP electricity generation, this exemption was extended to include CHP electricity supplied to an energy consumer other than by the station that produced it (indirect supplies). CHP-produced electricity is electricity that has been produced in a CHP station that meets criteria set out in the CHP Quality Assurance (CHPQA) Standard run by the Department of Energy and Climate Change. Under that Standard (which is the methodology used in the UK to define high efficiency co-generation) a CHP station is certified as being either fully- or partly exempt for the purposes of CCL.
8. Once electricity enters the national grid, the technology used to generate that electricity is no longer distinguishable. As a result of the extension of the CCL exemption to indirect supplies in 2003, paragraph 149A of Schedule 6 made provision for the CHP certification regime. CHP levy exemption certificates (CHP LECs) were introduced to provide evidence that CHP electricity had been produced.
9. CHP LECs are issued by the regulators of the regime, the Office of the Gas and Electricity Markets and the Northern Ireland Authority for Utility Regulation. Electricity suppliers buy LECs from CHP generators in the expectation that they will recover that outlay by applying the CCL exemption when they make onward supplies of electricity to final energy consumers. When such supplies are made the electricity utilities notify the regulator of the associated LEC identifiers and redeem them.
10. To cater for variations in supply and demand, paragraph 20B of Schedule 6 enables electricity suppliers to match the acquisition of CHP electricity with supplies that are exempt from CCL because they were made under the terms of a contract that contains a CHP declaration. The matching is carried out over quarterly periods with the facility to carry forward credit and debit balances to subsequent periods.
11. A credit occurs when acquisition in a period exceeds supply. A debit occurs where supply exceeds acquisition. A credit can be carried forward continuously until the electricity supplier stops making supplies under the terms of CHP source contracts. A continuous debit can be carried forward for a maximum of two years at which point the electricity supplier must account to HM Revenue and Customs for the CCL shortfall.

12. 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 (apart from oils) used in most forms of electricity generation will become liable to CCL, while oils used in electricity generation will no longer be fully relieved of fuel duty. They will be charged at new carbon price support rates of CCL or fuel duty, as appropriate.
13. The Government reviewed its support for CHP under the tax system in the light of the proposed introduction of the carbon price floor and the expiry on 31 March 2013 of State aid approval for the CCL CHP indirect supplies exemption. At Budget 2011, it announced that from 1 April 2013:
  - the indirect supply exemption would end, meaning that no new LECs will be issued for CHP electricity generated after that date; and
  - fossil fuels used to generate electricity in a CHP plant registered under the CHPQA programme as either fully or partly exempt would, subject to State aid approval, be liable to lower carbon price support rates of CCL and fuel duty.
14. The Government will also, in circumstances where electricity utilities have a credit balance relative to the provisions of paragraph 20B of Schedule 6, continue to allow CCL-exempt supplies to be made in order to use up that credit balance but only for a limited number of years.
15. CHP LECs are necessary for the administration of the CCL exemption for indirect supplies made by utilities only; there is no change to the levy exempt status of supplies of CHP electricity that are made direct from the station that produced it to the final consumer (including self-supplies).
16. If you have any questions about this change, or comments on the draft legislation, please contact David Godfrey on 0161 827 0335 (email [dave.godfrey@hmrc.gsi.gov.uk](mailto:dave.godfrey@hmrc.gsi.gov.uk)).

---

S T A T U T O R Y   I N S T R U M E N T S

---

**2013 No.**

**CLIMATE CHANGE LEVY**

**The Climate Change Levy (Combined Heat and Power Stations)  
(Amendment) Regulations 2013**

*Laid before Parliament in draft*

The Treasury, in exercise of the powers conferred by section 30 of, and paragraphs 16(2) and (3), 42B(4)(a) and 149 of Schedule 6 to, the Finance Act 2000(b), make the following Regulations, a draft of which has, in accordance with paragraph 146(3) of that Schedule, been laid before Parliament and approved by a resolution of the House of Commons:

**1.** These Regulations may be cited as the Climate Change Levy (Combined Heat and Power Stations) (Amendment) Regulations 2013 and come into force on 1st April 2013.

**2.** Amend the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005(c) as follows.

**3.** In the heading to regulation 3 before “for” insert “and reduced carbon price support rates”.

**4.** In regulation 3 (supplies to combined heat and power stations: exemption for inputs)—

(a) in paragraph (1) for “and 15(4)(a)” substitute “, 15(4)(a) and 42B(4)(a)”;

(b) in paragraph (2) before “149(1)” insert “42B(4)(b),”.

**5.—**(1) Renumber regulation 4 (supplies from partly exempt combined heat and power stations: exemptions for outputs) as regulation 4(1);

(2) Insert as regulation 4(2) and (3)—

“(2) For the purposes of that limit—

(a) any supplies made by a station to a utility or for domestic or non-business charity use shall be disregarded; but

(b) the electrical equivalent of any mechanical output of a station produced otherwise than for the purpose of electricity generation shall be included.

(3) For the purposes of paragraph 2(b), the electrical equivalent of any mechanical output of a station is derived by multiplying that output by 1.05.”.

**6.** Omit regulation 7.

---

(a) Paragraph 42B(4) was inserted by paragraph 7 of Schedule [ ] to the Finance Act 2012 (c. ).  
(b) 2000 c.17.  
(c) S.I. 2005/1714.

xx.xx 2013

Two of the Lords Commissioners of Her Majesty's Treasury

*name*  
*name*

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1 April 2013, amend the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005 (SI 2005/1714) (“the principal Regulations”).

Regulations 3 and 4 amend regulation 3 of the principal Regulations so that a combined heat and power station’s<sup>(a)</sup> threshold efficiency percentage and efficiency percentage stated in that regulation apply for the purposes of determining the fraction of a supply on which the reduced carbon price support rate of climate change levy is applied (see paragraph 42B of Schedule 6 to the Finance Act 2000).

Electricity up to a specified, quantitative limit produced in a partly exempt combined heat and power station may be supplied exempt from climate change levy. Regulation 5 provides, for the purposes of calculating that quantitative limit, for supplies to a utility<sup>(b)</sup> or for a domestic or non-business use of a charity to be disregarded, but requires the electrical equivalent of any mechanical output of the station produced otherwise than for the purpose of generating electricity to be included.

Regulation 6 revokes a transitional provision which is no longer necessary.

[Tax Information and Impact Notes covering this instrument were published on 6th December 2011 alongside a draft of the Finance Act 2012 and this instrument and are available on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>. They remain an accurate summary of the impacts that apply to this instrument.]

---

(a) For the meaning of which see paragraph 148(3) of Schedule 6 to the Finance Act 2000 (c. 17).  
(b) For the meaning of which see paragraph 150 of Schedule 6 to the Finance Act 2000.

**EXPLANATORY MEMORANDUM TO  
THE DRAFT CLIMATE CHANGE LEVY (COMBINED HEAT AND POWER  
STATIONS) (AMENDMENT) REGULATIONS 2013**

**2013 No.**

1. This explanatory memorandum has been prepared by HM Revenue & Customs on behalf of the Treasury and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This instrument amends the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005 (SI 2005/1714) (“the principal Regulations”) and comes into force on 1 April 2013.

2.2 The principal Regulations are amended so that the threshold efficiency percentage for a combined heat and power (CHP) station set in those Regulations and a station’s efficiency percentage determined in accordance with those Regulations apply for determining the extent that reduced carbon price support (CPS) rates of climate change levy (CCL) can apply.

2.3 This instrument also re-introduces certain categories of supplies that may be disregarded when calculating the limit on the quantity of electricity that may be produced in, and supplied from, a partly exempt<sup>1</sup> CHP station exempt from CCL for a given Annual Operation, and makes provision to include in that calculation the electrical equivalent of any mechanical output of the station produced otherwise than for electricity generation.

2.4 This instrument also revokes spent transitional provisions that could apply in determining the limit on the quantity of electricity that may be produced in, and supplied from, a partly exempt station exempt from CCL for the calendar year 2005.

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

3.1 None.

---

<sup>1</sup> This terms is explained in paragraph 7.6

## **4. Legislative Context**

4.1 The primary legislation containing provisions for CCL is Schedules 6 and 7 to the Finance Act 2000. An exemption from the levy for supplies of fossil fuels and electricity used by a CHP station is contained in paragraph 15 of Schedule 6. An exemption from the levy for electricity produced in a CHP station that is supplied by an electricity utility indirectly to an energy consumer is contained in paragraph 20A of Schedule 6.

4.2 The principal Regulations determine, among other things, the extent to which supplies to a certified CHP station can be exempt from CCL. They apply to both the exemption for supplies of leviable fuel to such stations; and in relation to the output electricity of a station, the circumstances in which a full CHP exemption certificate will be issued; and where a part exemption certificate is issued, they also set the limit of the electricity that may be supplied exempt from CCL.

4.3 Section 78 of, and Schedule 20 to, the Finance Act 2011 amends Schedule 6 from 1 April 2013 to remove the exemption from CCL for supplies of solid fuels, liquefied petroleum gas and gas used for the generation of electricity and introduces new CPS rates of CCL for such supplies. Section [ ] of, and Schedule [ ] to, the Finance Act 2012 further amends Schedule 6 so that such supplies to CHP stations are also charged with CCL, but at lower CPS rates (compared with the main CPS rates) relative to an objective threshold efficiency percentage under the CHPQA Standard<sup>2</sup>.

4.4 Under paragraph 16(2) of Schedule 6 and regulation 4 of the principal Regulations, a supply of electricity from a partly exempt CHP is currently exempt from CCL if the quantity of electricity supplied does not exceed the specified limit set out in regulations made by the Treasury. This instrument allows any supplies made to a utility or for domestic or non-business charity use by a partly exempt CHP to be disregarded when calculating that limit, but requires the electrical equivalent of any mechanical output of the station produced otherwise than for electricity generation to be included.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

---

<sup>2</sup> The Department of Energy and Climate Change Combined Heat and Power Quality Assurance (CHPQA) Standard provides the methodology in the UK for assessing the quality of a CHP station in terms of energy efficiency and environmental performance. The Threshold Efficiency Percentage is one of two key parameters; the other being the Quality Index and both can be determined from three sets of data: fuel used, power generated and heat supplied.

The Economic Secretary, Chloe Smith MP, has made the following statement regarding Human Rights:

In my view the provisions of the Climate Change Levy (Combined Heat and Power Stations) (Amendment) Regulations 2013 are compatible with the Convention rights.

## **7. Policy background**

- *What is being done and why*

7.1 The CCL is an important part of the UK's strategy for meeting the UK's legally binding target under the Kyoto Protocol of a 12.5 per cent reduction in greenhouse gas emissions below 1990 levels over the period 2008 to 2012. To help meet these targets, CCL encourages the efficient use of energy by business and the public sector. Domestic supplies of energy are not subject to the tax.

7.2 In the Budget 2011, the Government announced it would introduce a carbon price floor from 1 April 2013 to support investment in low-carbon generation. Supplies of fossil fuels used in most forms of electricity generation will become liable either to fuel duty or CCL from that date. Such supplies will be charged at newly created CPS rates of fuel duty (oils) or CCL (other fossil fuels), with the rate for each type of fuel determined by its average carbon content. The CPS rates will reflect the differential between the futures market price of carbon and the floor price determined by the Government.

7.3 As part of that announcement the Government outlined its intention to withdraw the exemption from CCL for supplies of electricity generated in a CHP station that are made by an electricity utility to an energy consumer, ("the CHP indirect supplies exemption"), and introduce lower CPS rates for supplies of fossil fuels made to good-quality CHP stations. These changes will also come into effect on 1 April 2013.

7.4 Regulation 4 of this instrument amends the principal Regulations so that the threshold efficiency percentage of a CHP set in those Regulations and a station's efficiency percentage determined in accordance with those Regulations applies for the purposes of determining the extent that reduced CPS rates can apply from 1 April 2013.

7.5 The CCL legislation provides for exemptions for environmentally friendly forms of electricity generation, including one to encourage CHP generation. The extent to which electricity qualifies for the exemption depends on the efficiency and environmental performance of a CHP station as assessed under the CHPQA Standard.

7.6 Where a CHP station achieves the Quality Index under the CHPQA Standard (see footnote 2) it is certified as being fully exempt and all the electricity supplied is exempt from CCL. Where a CHP station only partly meets that test, it is certified as being partly exempt in recognition of its

reduced environmental benefits and only a proportion of the electricity produced (its qualifying limit) can be supplied exempt from CCL. Such stations are known as partly exempt CHP stations.

7.7 At the introduction of CCL in April 2001, CHP-generated electricity was exempt from the levy only where the supply of electricity was made direct by the CHP operator to the end consumer. However, when calculating the limit on the quantity of electricity that may be produced in and supplied from a partly exempt CHP station exempt from the levy, any supplies from the station to a utility or for domestic or non-business charity use could be disregarded. But the calculation had to include the electrical equivalent of any mechanical output of the station produced otherwise than for electricity generation.

7.8 In April 2003, to encourage greater CHP electricity generation, the original exemption for CHP electricity was extended to “indirect supplies”, that is to say supplies made via an electricity utility to an energy consumer. To cater for the fact that all qualifying CHP-generated electricity could be supplied exempt, all qualifying electricity, known as qualifying power output (QPO), is subject to levy exemption certificates (CHP LECs) when it is produced. As a consequence of the introduction of CHP LECs it was necessary to require all categories of supply to be taken into account for the purposes of determining the QPO limit of a partly exempt CHP station and so the supply category restrictions for the purposes of reckoning contribution towards QPO was removed.

7.10 The QPO produced in a CHP station after 31 March 2013 will no longer be the subject CHP LECs. Amendments to the Climate Change Levy (General) Regulations 2001 (S.I. 2001/838) are being made by [S.I. 2012/.....]

7.11 Regulation 5 of this instrument therefore re-introduces from 1 April 2013 the provisions that previously applied before the introduction of the CHP LEC system in respect of partly exempt CHP stations.

## **8. Consultation outcome**

8.1 In line with the Government’s framework for making tax policy a draft of this instrument was published for consultation on 6 December 2012.

## **9. Guidance**

9.1 The details of this change were explained in a Tax Information and Impact Note published on 6 December 2012. Six public notices covering CCL are available at [www.hmrc.gov.uk](http://www.hmrc.gov.uk).

## **10. Impact**

10.1 [Tax Information and Impact Notes covering this instrument were published on 6 December 2011 alongside a draft of the Finance Act 2012 and this instrument. They are available on the HMRC website at

<http://www.hmrc.gov.uk/thelibrary/tiins.htm>. They remain 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 operators of CHP stations within the CHPQA programme.

11.3 The basis for the final decision on what action to take to assist small business is described in paragraphs 7.1 to 7.11, so no such action is taken for this general tax provision.

## **12. Monitoring & review**

12.1 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**

David Godfrey at HM Revenue & Customs Tel: 0161 827 0335 or email: [dave.godfrey@hmrc.gsi.gov.uk](mailto:dave.godfrey@hmrc.gsi.gov.uk) can answer any queries regarding the instrument.