
STATUTORY INSTRUMENTS

1996 No. 293

The Fossil Fuel Levy (Scotland) Regulations 1996

OVER-PAYMENTS IN RESPECT OF LEVY

Over-payments in respect of levy: action by licensed supplier

19.—(1) If at any time any licensed supplier has reason to believe that the payment, or the aggregate of the payments, made in respect of the levy by him pursuant to regulation 11(3) is greater than it should have been, he may serve notice on the Director setting out—

- (a) his reason or reasons for the belief; and
- (b) the amount which he believes he should have paid and the manner in which that amount has been calculated.

(2) If the Director wishes to question any matter set out in a notice served on him under paragraph (1), he shall do so by notice served on the licensed supplier within 28 days of receiving the notice served under paragraph (1).

(3) Any notice served under paragraph (2) shall set out in full the Director's reasons for wishing to question any matter in the notice served on him under paragraph (1).

(4) If the Director fails to serve a notice under paragraph (2) within the period mentioned in that paragraph, he shall be deemed to have accepted the notice served on him under paragraph (1) without question as to the amount (but without prejudice to the ability of the Director subsequently to serve notice on the licensed supplier in accordance with regulation 17) and the licensed supplier may then deduct the difference between the amount which he has paid and the amount set out in that notice (together with an amount in respect of interest in accordance with regulation 24(2)) from the next payment due from him under paragraph (3) of regulation 11.

(5) No notice under paragraph (1) may be served after the expiry of a period of 3 years commencing on the last day of whichever of the periods specified in regulation 11(3)(a) and (b) is the period in question.

Over-payments in respect of levy: action by prescribed person

20.—(1) If at any time the Director has reason to believe that the payment, or the aggregate of the payments, made in respect of the levy by a licensed supplier pursuant to these Regulations is greater than it should have been, he shall serve notice on the supplier setting out—

- (a) his reason or reasons for the belief; and
- (b) after having regard to the information relating to the supplier available to him at the time, the amount which he believes that the supplier should have paid and the manner in which that amount has been calculated.

(2) If the licensed supplier wishes to question any matter set out in a notice served on him under paragraph (1), he shall do so by notice served on the Director within 28 days of receiving the notice served under paragraph (1).

(3) Any notice served under paragraph (2) shall set out in full the licensed supplier's reasons for wishing to question any matter in the notice served on him under paragraph (1).

(4) If the licensed supplier fails to serve a notice under paragraph (2) within the period mentioned in that paragraph, he shall be deemed to have accepted the notice served on him under paragraph (1) without question as to the amount (but without prejudice to the ability of the Director subsequently to serve notice on the licensed supplier in accordance with regulation 17) and he may then deduct the difference between the amount set out in that notice and the amount which he has paid (together with an amount in respect of interest in accordance with regulation 24(2)) from the next payment due from him under paragraph (3) of regulation 11.

(5) No notice under paragraph (1) may be served after the expiry of a period of 3 years commencing on the last day of whichever of the periods specified in regulation 11(3)(a) and (b) is in question.

Over-payments in respect of levy: adjustments

21. When any question arising from a notice served under paragraph (2) of regulation 19 or 20 has been resolved (whether by agreement between the Director and the licensed supplier or otherwise)—

- (a) any payment found to be due from the supplier in respect of the levy shall be made by him at the same time as he makes the next payment due from him under paragraph (3) of regulation 11; and
- (b) any amount found to be in excess of the proper amount of a payment made by the supplier in respect of the levy may be deducted by him from the next payment due from him under paragraph (3) of regulation 11,

(together, in each case, with an amount in respect of interest in accordance with regulation 24).

Deductions: general

22.—(1) If any amount which a licensed supplier is entitled to deduct pursuant to—

- (a) paragraph (5)(b) of regulation 14;
- (b) paragraph (5) of regulation 15;
- (c) paragraph (4) of regulation 19;
- (d) paragraph (4) of regulation 20; or
- (e) paragraph (b) of regulation 21;

is greater than the amount of the next payment due from him under paragraph (3) of regulation 11—

- (i) the supplier need not make that next payment; and
- (ii) he may deduct the balance of the amount which he is entitled to deduct (together with an amount in respect of interest in accordance with regulation 24(2)) from the next succeeding payment due from him under paragraph (3) of regulation 11.

(2) Paragraph (1) shall apply in relation to successive payments due under paragraph (3) of regulation 11 until—

- (a) the licensed supplier has deducted the whole of the amount first mentioned in paragraph (1); or
- (b) the supplier has served notice on the Director that he does not intend to make any further deductions in respect of that amount.

(3) A licensed supplier who in pursuance of this regulation does not make a payment in accordance with regulation 11 shall nevertheless furnish to the Director a statement in accordance with regulation 12, save that such statement shall set out the manner in which the supplier has calculated the amount of the payment which he would have paid but for this regulation.