
STATUTORY INSTRUMENTS

1998 No. 1828

ELECTRICITY

The Fossil Fuel Levy (Amendment) Regulations 1998

Made - - - - 24th July 1998
Laid before Parliament 27th July 1998
Coming into force - - 31st August 1998

The Secretary of State, in exercise of the powers conferred by sections 33 and 60 of the Electricity Act 1989(1), and of all other powers enabling her in that behalf, hereby makes the following Regulations:

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Title and commencement

1. These Regulations may be cited as the Fossil Fuel Levy (Amendment) Regulations 1998 and shall come into force on 31st August 1998.

Amendment

2. The Fossil Fuel Levy Regulations 1990(2) (“the Principal Regulations”) are amended in accordance with regulations 3 to 11 below.

3. In regulation 2 of the Principal Regulations paragraph (2) shall be omitted.

4. In regulation 12(2) of the Principal Regulations for sub-paragraph (b)(i) and (ii) there shall be substituted the following—

- “(i) leviable electricity; and
- (ii) electricity other than leviable electricity,

supplied by him during the qualifying month in question.”.

5. In regulation 19 of the Principal Regulations—

- (a) in paragraph (1) the words “and in relation to each relevant category of electricity” and the words “in that category” shall be omitted; and
- (b) in paragraph (3) the words “in each relevant category” shall be omitted.

(1) 1989 c. 29.
(2) S.I. 1990/266 as amended by S.I. 1996/1309.

6. In regulation 20(1)(a) of the Principal Regulations for the words “any electricity within the relevant category in question” there shall be substituted the word “electricity”.
7. In regulation 21 of the Principal Regulations—
- (a) in paragraph (3) for the words “any electricity within the category in question” there shall be substituted the word “electricity”;
 - (b) in paragraph (4)(a) the words “within each relevant category” shall be omitted; and
 - (c) in paragraph (5) for the words “any electricity within the relevant category in question” there shall be substituted the word “electricity”.
8. In regulation 22(1)(a) of the Principal Regulations for the words “any electricity within the relevant category in question” there shall be substituted the word “electricity”.
9. In regulation 32(4) of the Principal Regulations for the words “31st March” there shall be substituted the words “30th September”.
10. For Schedules 1, 2 and 3 to the Principal Regulations there shall be substituted the following—

“SCHEDULE 1

Regulation 2(3)

Interpretation of Schedules 2 and 3

In Schedules 2 and 3—

“estimated”, in relation to any amount, cost, quantity or value, means estimated by the Director on the basis of information furnished to him pursuant to these Regulations;

“leviable unit” means a unit of leviable electricity;

“LIBOR”, in relation to any particular day means the rate per centum per annum which is the arithmetic mean (rounded if necessary to the nearest whole multiple of one sixteenth of one per centum, with any odd thirty-second being rounded upwards) of the offered quotations (expressed as percentages) for deposits in sterling for a three month period which appear on the Reuters display screen page entitled LIBP (or such other page as may replace that page from time to time in that system) at or about 11.00 a.m. London time on that day excluding, if there are more than three such quotations, the highest and lowest of them (or, if there are more than one highest or lowest quotation, excluding only one of them) or, if that page is not available, or if fewer than three quotations are available at that time on that page, the arithmetic mean (rounded if necessary to the nearest whole multiple of one sixteenth of one per centum, with any odd thirty-second being rounded upwards) of the respective rates notified to the Director by any three United Kingdom clearing banks selected by the Director as the rate at which each such bank is offered deposits for three months for a sterling amount of £25 million by prime banks in the London Interbank Market at or about 11.00 a.m. London time on that day;

the superscript¹ is used to denote the estimate made by the Director of the amount in question for the period in question to calculate the levy rate for that period or for part of it;

the superscript² is used to denote the estimate made by the Director of the amount in question for the period in question to calculate the levy rate for the period of 12 months immediately following that period or for any part of that period of 12 months; and

the absence of a superscript is used to denote the actual amount in question;

“y” means, as the case may be, either the initial period of 12 months ending on 31st March 1991 or that one of the successive periods of 12 months following that initial period in which the qualifying month falls;

“y-1” means the period of 12 months immediately preceding period y and “y-2” means that period of 12 months immediately preceding period y-1 except, in each case, where that period falls wholly or partly before 1st April 1990 when any symbol with this subscript shall have the value zero;

“Y” means, as the case may be, either the initial period of 12 months ending on 30th September 1999 or that one of the successive periods of 12 months following that initial period in which the qualifying month falls;

“Y-1” means the period of 12 months immediately preceding period Y and “Y-2” means that period of 12 months immediately preceding period Y-1;

the definitions contained in paragraphs 1, 2, 3, 5 and 6 of Schedule 2 and in Schedule 3 shall have an equivalent meaning, mutatis mutandis, when Y is replaced by y;

where Y or y is followed by two digits, these digits indicate the last two digits of the year in which the period Y or y commenced (for example Y00 indicates a period commencing on 1 October 2000);

the precedence of any symbol by the subscript 1 (as in ${}_1D''_{y98}$) indicates that the months referred to are the first six months of the period indicated in the subscript following the symbol, or lie within the first six months of the period indicated in the subscript following the symbol (and therefore any associated summation should be from n=1 to n=6 inclusive).

SCHEDULE 2

Regulation 5(1)

Method of calculating amount of any payment in respect of levy

1. In this Schedule the following symbols have the following meanings—

A_Y is the aggregate of the total costs calculated in relation to each public electricity supplier in accordance with Part I of Schedule 3 in respect of period Y;

B_Y is the aggregate of the total costs calculated in relation to each public electricity supplier in accordance with Part II of Schedule 3 in respect of period Y;

C_Y is the amount of the administrative expenses of the Director attributable to the levy incurred in respect of period Y;

E_Y is the aggregate amount of all interest payments pursuant to regulation 29(1) in respect of period Y less the aggregate amount of all interest payments pursuant to regulation 29(2) in respect of period Y;

F_Y is the aggregate amount of all interest payments pursuant to regulation 30 received in period Y;

G_Y is the aggregate amount of levy or interest payments due in respect of period Y which, in the opinion of the Director, will be either irrecoverable or recoverable only at excessive cost;

K_Y is the correction factor for Y calculated in accordance with paragraph 4; and

X_Y is the aggregate amount (exclusive of levy and value added tax) charged (whether or not a bill or invoice has been delivered to a customer) by licensed suppliers for leviable electricity supplied by them in period Y.

2. Subject to any adjustment which may be required pursuant to the Regulations, the amount of any payment to be made by a licensed supplier in respect of the levy in period Y shall be calculated by applying to the aggregate amount (exclusive of value added tax and levy) charged

(whether or not any bill or invoice has been delivered to a customer) by the supplier for leviable electricity supplied by him during the qualifying month—

- (a) except where sub-paragraph (b) of this paragraph applies, the percentage figure R_Y where R_Y is the percentage figure r_Y given by the formula—

$$r_Y = 100 (K_Y + D''_Y) / X''_Y$$

after it has been rounded to the nearest one tenth of a per centum (any odd one twentieth of a per centum being rounded upwards); or

- (b) in relation to a rate of levy to apply from the commencement of a qualifying month other than the first qualifying month of period Y, the percentage figure R_{1Y} where R_{1Y} is the percentage figure r_{1Y} given by the formula—

$$r_{1Y} = 100 (K_Y + D''_Y - L) / (X''_Y - M)$$

after it has been rounded to the nearest one tenth of a per centum (any odd one twentieth of a per centum being rounded upwards); and

L is the estimate made by the Director of the aggregate amount of levy payments due in respect of the qualifying months in period Y preceding the qualifying month from the beginning of which R_{1Y} is to apply; and

M is the estimate made by the Director of the aggregate amount (exclusive of levy and value added tax) charged (whether or not a bill or invoice has been delivered to a customer) by licensed suppliers for leviable electricity supplied by them in those qualifying months.

3. In the formulae in Schedule 2, the values of D_Y , D'_Y , D''_Y , D_y , D'_y , D''_y , ${}_1D_Y$, ${}_1D'_Y$, ${}_1D''_Y$, ${}_1D_y$, ${}_1D'_y$ and ${}_1D''_y$, are given by the formulae—

$$D_Y = A_Y - B_Y + C_Y - E_Y - F_Y + G_Y$$

$$D'_Y = A'_Y - B'_Y + C'_Y - E'_Y - F'_Y + G'_Y$$

$$D''_Y = A''_Y - B''_Y + C''_Y - E''_Y - F''_Y + G''_Y$$

$$D_y = A_y - B_y + C_y - E_y - F_y + G_y$$

$$D'_y = A'_y - B'_y + C'_y - E'_y - F'_y + G'_y$$

$$D''_y = A''_y - B''_y + C''_y - E''_y - F''_y + G''_y$$

$${}_1D_Y = {}_1A_Y - {}_1B_Y + {}_1C_Y - {}_1E_Y - {}_1F_Y + {}_1G_Y$$

$${}_1D'_Y = {}_1A'_Y - {}_1B'_Y + {}_1C'_Y - {}_1E'_Y - {}_1F'_Y + {}_1G'_Y$$

$${}_1D''_Y = {}_1A''_Y - {}_1B''_Y + {}_1C''_Y - {}_1E''_Y - {}_1F''_Y + {}_1G''_Y$$

$${}_1D_y = {}_1A_y - {}_1B_y + {}_1C_y - {}_1E_y - {}_1F_y + {}_1G_y$$

$${}_1D'_y = {}_1A'_y - {}_1B'_y + {}_1C'_y - {}_1E'_y - {}_1F'_y + {}_1G'_y$$

$${}_1D''_y = {}_1A''_y - {}_1B''_y + {}_1C''_y - {}_1E''_y - {}_1F''_y + {}_1G''_y$$

4. In the formulae in paragraph 2 the correction factor K_Y shall be the amount of money, whether positive or negative, given by the following formulae—

- (a) during the year starting on 1st October 1998—

$$K_{Y98} = (1 - p) K_{y98} + {}_1k^{-1}_{y99} (1 + I_{y98}/100) + pk^{-2}_{y99} (1 + I_{y97}/100) (1 + I_{y98}/100)$$

where—

$$p = \left[\sum_n (r_{ny98} {}_1X''_{ny98}) - {}_1D''_{y98} \right] / \left[\sum_n (r_{ny98} X''_{ny98}) - D''_{y98} \right]$$

K_{y98} = the value of K_y used in calculating the rate, r_y , in force from 1st April 1998

$${}_1k^{-1}_{y99} = \left\{ ({}_1D'_{y98} - {}_1D''_{y98}) - \sum_n [R_{ny98} {}_1X'_{ny98} - r_{ny98} {}_1X''_{ny98}] / 100 \right\}$$

$$k^{-2}_{y99} = \left\{ (D_{y97} - D'_{y97}) - \sum_n [R_{ny97} (X_{ny97} - X'_{ny97})] / 100 \right\}$$

(b) during the year starting on 1st October 1999:

$$K_{Y99} = k^{-1}_{y99} (1 + I_{y98}/100) + (1 - p) k^{-2}_{y99} (1 + I_{y97}/100) (1 + I_{y98}/100) + {}_1k^{-2}_{y00} (1 + I_{y98}/100) (1 + I_{y99}/100)$$

where—

$$k^{-1}_{Y99} = \left\{ (D'_{Y98} - D''_{Y98}) - \sum_n [R_{nY98} X'_{nY98} - r_{nY98} X''_{nY98}] / 100 \right\}$$

p = as in (a) above

$$k^{-2}_{y99} = \left\{ (D_{y97} - D'_{y97}) - \sum_n [R_{ny97} (X_{ny97} - X'_{ny97})] / 100 \right\}$$

$${}_1k^{-2}_{y00} = \left\{ ({}_1D_{y98} - {}_1D'_{y98}) - \sum_n [R_{ny98} ({}_1X_{ny98} - {}_1X'_{ny98})] / 100 \right\}$$

(c) during the year starting on 1st October 2000 and during subsequent years starting on 1st October—

$$K_Y = k^{-1}_Y (1 + I_{Y-1}/100) + k^{-2}_Y (1 + I_{Y-2}/100) (1 + I_{Y-1}/100)$$

where—

$$k^{-1}_Y = \left\{ (D'_{Y-1} - D''_{Y-1}) - \sum_n [R_{nY-1} X'_{nY-1} - r_{nY-1} X''_{nY-1}] / 100 \right\}$$

$$k^{-2}_Y = \left\{ (D_{Y-2} - D'_{Y-2}) - \sum_n [R_{nY-2} (X_{nY-2} - X'_{nY-2})] / 100 \right\}$$

5. In the formulae in paragraph 4 the following symbols have the following meanings—

D''_{Y-1} has the value that was given by the Director to D''_Y on the last occasion on which he calculated the levy rate to apply in the period $Y-1$;

$$\sum_n$$

signifies the summation over all the qualifying months $n=1$ to 6 inclusive or $n=1$ to 12 inclusive, as the case may be, within the period $Y-1$ or $Y-2$ as the case may be;

R_n is the rate of levy that applied to month n in the period $Y-1$ or $Y-2$ as the case may be;

r_n is whichever of the percentage figures r_Y or r_{1Y} was used in calculating the rate of levy that applied to month n in the period $Y-1$;

X_n is the aggregate amount (exclusive of levy and value added tax) charged (whether or not a bill or invoice has been delivered to a customer) by licensed suppliers for leviable electricity supplied by them in month n in the period $Y-1$ or $Y-2$ as the case may be;

X''_{nY-1} has a value equal to such proportion of the value that was given by the Director to X''_Y on the last occasion on which he calculated the levy rate to apply in the period $Y-1$ as in the opinion of the Director is attributable to month n in that period;

D'_{Y-2} has the value that was given by the Director to D'_{Y-1} on the last occasion on which he calculated the levy rate to apply in the period $Y-1$;

X'_{nY-2} in respect of a month n in period $Y-2$, has the value that was given by the Director to X'_{nY-1} in respect of that month on the last occasion on which he calculated the levy rate to apply in the period $Y-1$;

I_Y is the arithmetic average of the LIBOR rates on the last day of each of the first six months in period Y ; and

I_{Y-1} is the arithmetic average of the LIBOR rates on the last day of each of the first six months in period $Y-1$; and

I_{Y-2} is the arithmetic average of the LIBOR rates on the last day of each of the first six months in period $Y-2$.

SCHEDULE 3

Regulation 5(2) and (3)

PART I

Method of calculating actual cost of purchasing certain electricity

1. The method of calculating the total cost to each public electricity supplier P of purchasing electricity supplied by him during qualifying months, $n=1$ to 6 inclusive within period Y , or during qualifying months $n=1$ to 12 inclusive within period Y , as the case may be, which was generated in pursuance of qualifying arrangements (which, when combined with the like total cost attributable to every other public electricity supplier, is expressed as A_Y in paragraph 1 of Schedule 2) is given by the formula—

$$A_{YP} = \sum_n (S_n + T_n + U_n)$$

where

$$\sum_n$$

signifies the summation over the qualifying months, $n=1$ to 6 inclusive within period Y , or the qualifying months $n=1$ to 12 inclusive within period Y , as the case may be;

$$S_n$$

is the aggregate of the amounts due from supplier P under his qualifying arrangements in respect of electricity supplied in month n (whether or not such amounts have been paid) excluding any advance or deferred payments;

T_n

is the aggregate of any advance payments supplier P is required under his qualifying arrangements to make in month n; and

U_n

is the aggregate of any deferred payments supplier P is required under his qualifying arrangements to make in month n;

together with interest as provided for in the correction factor K_Y in Schedule 2.

PART II

Method of calculating hypothetical cost of purchasing certain electricity

2. The method of calculating what would have been the total cost to each public electricity supplier P of purchasing the electricity mentioned in paragraph 1 if that electricity had been generated by a fossil fuel generating station (which, when combined with the like total cost attributable to every other public electricity supplier, is expressed as B_Y in paragraph 1 of Schedule 2) is given by the formula—

$$B_{YP} = \sum_n \sum_j (H_{nj} \times Z_{nj}) + \sum_n \left[(V_n - \sum_j H_{nj}) \times \left(\frac{\sum_j Z_{nj}}{W_n} \right) \right]$$

3. In the formula in paragraph 2—

\sum_n

signifies the summation over the qualifying months, n=1 to 6 inclusive within period Y, or the qualifying months n=1 to 12 inclusive within period Y, as the case may be;

\sum_j

signifies the summation over all the half hours (beginning on the hour or on the half hour) within month n;

H_{nj}

is the number of units of the electricity referred to in paragraph 1 supplied in each particular half hour within month n where that number is known;

Z_{nj}

is the market price in each half hour within month n as defined in regulation 19 except during a security period, when it shall be a price determined as the Director, after consultation with licensed suppliers, sees fit;

V_n

is the number of units of the electricity referred to in paragraph 1 within month n; and

W
"

is the number of half hours in month n.

4. In paragraph 3, “security period” means a period commencing on the date on which security directions come into force and ending on the specified date, and in this paragraph—

- (a) “security directions” means directions given under paragraph (b) of subsection (4) of section 34 of the Act (whether or not such directions are given in conjunction with directions given under any other provision of that section); and
- (b) “specified date” means the date (not being earlier than the date on which the security directions cease to be in force) specified by the Director in a notice to licence holders as the date by which any procedure governing the despatch of electricity from generating stations the operation of which was suspended while the security directions were in force once more becomes operative.”.

11. In paragraph 3(a), (b), (f) and (g) of Part I of Schedule 4 to the Principal Regulations the words “in each relevant category” shall be omitted.

24th July 1998

John Battle,
Minister for Science, Energy and Industry,
Department of Trade and Industry

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Fossil Fuel Levy Regulations 1990 (“the Principal Regulations”) (S.I.1990/266).

They substitute new Schedules 1, 2 and 3 (regulation 10). The main change of substance is that the levy year in respect of which the levy rate and the cost of purchasing certain electricity are normally calculated now starts on 1st October rather than 1st April. The change in the start of the levy year assists the cash flow between the money raised through the imposition of the levy under regulation 3 of the Principal Regulations and the money paid out to public electricity suppliers in England and Wales under regulation 28 of the Principal Regulations.

The other change of substance is that references to “categories of electricity”, which were defined in section 2(2) of the Principal Regulations, have been deleted. This simplifies the information which licensed suppliers are required to furnish to the Director General of Electricity Supply (regulations 3-8 and 11).