

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE AGREEMENTS (ENERGY-INTENSIVE
INSTALLATIONS) REGULATIONS 2006

2006 No. 59

1. This explanatory memorandum has been prepared by the Treasury and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The instrument will enable additional energy-intensive facilities to be identified in a climate change agreement (CCA). Supplies of electricity, gas and solid fuels to them may then carry only 20% of the climate change levy (CCL) rates.

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

None.

4. Legislative background

4.1 The Finance Act 2000 (c.17) Schedule 6 has, since 1 April 2001, charged CCL on supplies of electricity, gas and solid fuels for business use.

4.2 Paragraphs 42 and 44 to 51 of that Schedule enable supplies to an energy-intensive facility to carry only 20% of the CCL rates. The facility must be identified in a CCA with the Secretary of State for the Environment, Food and Rural Affairs. CCAs set targets for improvements in energy efficiency or emissions, and performance is monitored regularly. CCAs therefore assist energy-intensive businesses exposed to international competition, but also oblige them to improve their energy efficiency or reduce their emissions in return for the reduced CCL rates.

4.3 Under paragraphs 50 and 51 of that Schedule, CCA eligibility is built from the idea of Part A installations as defined in Schedule 1 Part 3 to the Pollution Prevention and Control (England and Wales) Regulations 2000 (S.I. 2000/1973).

4.4 Not all energy intensive premises are covered by that definition however, and this has led to some distortions and inequalities that the instrument will help address. It does this by widening CCA eligibility to include installations for industrial gases, kaolinitic clay, filler & whitener, heat-treating metals, horticulture, textiles and plastic film.

4.5 The Climate Change Agreements (Eligible Facilities) Regulations 2006 (S.I. 2006/60) will set conditions that must be satisfied for such premises to be taken as a facility.

4.6 The scheme as a whole takes advantage of the frameworks in Articles 5 and 17 of Council Directive 2003/96/EC (taxation of energy products and electricity) (OJ No L 283, 31.10.03, p 51) (differentiated rates above the minimum levels, and other

reductions for energy-intensive businesses).

(The Directive was:

Cleared by the House of Lords – 9 December 2002.

Debated in Standing Committee B, House of Commons – 27 October 1999.

Cleared by the House of Commons – 27 November 2002.)

Section 3.2.2 of the European Commission's attached decision of 5 October 2005 in notification State Aid No N 190A/05 contains further details, although a further decision is awaited for horticulture, textiles and plastic film. At present, supplies for horticulture need carry only 50% of the CCL rates.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

John Healey MP, the Financial Secretary to the Treasury, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Climate Change Agreements (Energy-intensive Installations) Regulations 2006 are compatible with the Convention rights.

7. Policy background

7.1 The imposition of CCL on the energy used by business and the public sector is part of the United Kingdom's effort to combat climate change and play its part in the European Community's obligations under the Kyoto Protocol. The Protocol aims to reduce emissions of six greenhouse gases from developed countries between 2008 and 2012 by at least 5% below 1990 levels. The European Union and its member States agreed to a burden-sharing agreement of an 8% reduction in greenhouse gas emissions by 2012. As part of this agreement, the United Kingdom has taken on a reduction of 12.5%.

7.2 The first target results for CCL showed that sectors with CCAs, and enjoying 20% of the CCL rates, made real improvements in their energy efficiency or reductions in their emissions. So, as well as removing some of the competitive distortions referred to above, there is a sound environmental rationale for extending the agreements to other energy-intensive sectors exposed to international competition.

7.3 The level of public interest will be mainly restricted to the business sectors for which the new eligibility criteria are relevant, suppliers who will provide them with energy at the reduced CCL rates, and business associations such as the Confederation of British Industry (who argued for, and welcomed, the widening of eligibility).

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is absorbed within existing practices and there is no overall net cost to the Exchequer.

9. Contact

Phil Wilson at HM Revenue and Customs Tel: 020 7147 0655 or e-mail: philip.wilson@hmrc.gsi.gov.uk can answer any queries regarding the instrument on behalf of the Treasury.