

SCHEDULES

SCHEDULE 2

Section 23

CLIMATE CHANGE LEVY: REDUCED-RATE SUPPLIES ETC

Introductory

1 Schedule 6 to FA 2000 (climate change levy) is amended as follows.

Reduced-rate supplies

2 In paragraph 4(2)(b) (taxable supplies: introduction), after “paragraph 24” insert “or 45A”.

3 In paragraph 5(3) (supplies of electricity), for “or 24” substitute “, 24 or 45A”.

4 In paragraph 6(2A) (supplies of gas), after “24” insert “or 45A”.

5 (1) Paragraph 34 (other commodities: deemed supplies) is amended as follows.

(2) In sub-paragraph (1)(b), for “or 24” substitute “, 24 or 45A”.

(3) After sub-paragraph (3) insert—

“(4) A supply that is deemed to be made under paragraph 45A is treated as taking place upon the later determination.”

6 In paragraph 39(1)(c) (regulations as to time of supply), for “or 24” substitute “, 24 or 45A”.

7 For paragraph 44 substitute—

“44 (1) For the purposes of this Schedule, a taxable supply is a reduced-rate supply if—

- (a) the taxable commodity is supplied to a facility specified in a certificate given by the Secretary of State to the Commissioners as a facility which is to be taken as being covered by a climate change agreement for a period specified in the certificate, and
- (b) the supply is made at a time falling in that period.

(2) Sub-paragraph (1) has effect subject to paragraph 45.

(3) The Commissioners may by regulations make provision for giving effect to sub-paragraph (1).

(4) Regulations under this paragraph may, in particular, include provision for determining whether any taxable commodity is supplied to a facility.

(5) The provision that may be made by virtue of sub-paragraph (4) includes, in particular, provision for a taxable commodity of any description specified in the regulations to be taken as supplied to a facility only if the commodity is delivered to the facility.”

Status: This is the original version (as it was originally enacted).

- 8 (1) Paragraph 45 (reduced-rate supplies: variation of notices under paragraph 44) is amended as follows.
- (2) Omit sub-paragraphs (2) to (4).
- (3) In sub-paragraph (5)—
- (a) in paragraph (b), for “the variation notice is published” substitute “the variation certificate is given”, and
 - (b) for the words following that paragraph substitute “the original certificate has effect as if the facility had never been specified in it”.
- (4) In sub-paragraph (6)—
- (a) in paragraph (b), for “the variation notice is published” substitute “the variation certificate is given”, and
 - (b) for the words following that paragraph substitute “the original certificate has effect as if the last day of the period specified for the facility in the original certificate were the day on which the variation certificate is given”.
- (5) In sub-paragraph (7), for the words from “the original notice” to the end substitute
- “the original certificate has effect as if the last day of the period specified for the facility in the original certificate were the later of—
- (a) the day on which the variation certificate is given, and
 - (b) the day specified in the variation certificate.”
- (6) The italic heading before that paragraph accordingly becomes “*Reduced-rate supplies: variation of certificates under paragraph 44*”.

9 After that paragraph insert—

“Reduced-rate supplies: deemed supply

- 45A (1) This paragraph applies where—
- (a) a taxable supply has been made to any person (“the recipient”),
 - (b) the supply was made on the basis that it was a reduced-rate supply, and
 - (c) it is later determined that the supply was not a reduced-rate supply.
- (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 80 per cent. of the amount that would be payable if the supply were not a reduced-rate supply.”

- 10 In paragraph 147 (interpretation), in the definition of “reduced-rate supply”—
- (a) for “44(3)” substitute “44(1)”, and
 - (b) for “44(4)” substitute “44(2)”.

Notifications and certificates

- 11 (1) Paragraph 11 (exemption: supply not for burning in UK) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In sub-paragraph (1)—
 - (a) omit “has, before the supply is made, notified the supplier”, and
 - (b) omit “that he” (in both places).
 - (3) In sub-paragraph (3)—
 - (a) omit “has, before the supply is made, notified the supplier that”, and
 - (b) omit “he”.
- 12 (1) Paragraph 101 (civil penalties: incorrect notifications etc) is amended as follows.
- (2) Omit sub-paragraph (1).
 - (3) In sub-paragraph (2)—
 - (a) after “paragraphs” insert “11,” and
 - (b) after “the certificate is” insert “(or becomes)”.
 - (4) In sub-paragraph (3)—
 - (a) for “sub-paragraph (1) or (2)” substitute “this paragraph”, and
 - (b) omit “notification or”.
 - (5) In sub-paragraph (4)—
 - (a) for “notification or certificate” substitute “certificate (or not revoking or varying it)”,
 - (b) for “the person who gave it” substitute “the person concerned”, and
 - (c) for the words from “there is” to the end substitute “the person has a reasonable excuse”.
 - (6) In sub-paragraph (5)—
 - (a) for “notification or certificate” substitute “certificate (or not revoking or varying it)”, and
 - (b) for “the giving of the notification or certificate” substitute “that”.
 - (7) The italic heading before paragraph 101 accordingly becomes “*Civil penalties: incorrect certificates*”.

Commencement

- 13 (1) Paragraphs 2 to 10 come into force on such day as the Treasury may by order made by statutory instrument appoint.
- (2) But any power to make regulations under any provision inserted or amended by any of those paragraphs may be exercised at any time after this Act is passed.
- (3) The power to make an order under sub-paragraph (1)—
 - (a) may be exercised so as to bring a provision into force only in such cases as may be described in the order,
 - (b) may be exercised so as to make different provision for different cases or descriptions of case,
 - (c) includes power to make incidental, consequential, supplemental or transitional provision or savings.