



Finance (No. 2) Act 2023

2023 CHAPTER 30

PART 5

ELECTRICITY GENERATOR LEVY

Calculation of exceptional generation receipts

286 Exceptional revenue sharing costs

- (1) **Subsection (2)** applies for the purposes of determining the amount of allowable costs that may be claimed by a generating undertaking in respect of exceptional revenue sharing costs.
- (2) Take the following steps to determine the amount (if any) that can be claimed for a qualifying period—

Step 1

Determine if there are any relevant generating stations whose generation has been attributed to the undertaking in relation to which there are qualifying arrangements under which payments are made to a third party in relation to the undertaking by reference to—

- (a) the price received for generation by that station, or
- (b) the wholesale price of electricity.

Step 2

Determine the amounts paid, in respect of each of those arrangements.

Step 3

In relation to each such payment, determine the amount that would have been paid if the price received for generation by the station in question and the wholesale price of electricity had been the benchmark amount and subtract that amount from the amount actually paid.

Step 4

Add together the results of Step 3.

Status: This is the original version (as it was originally enacted).

If the result of Step 3 is nil or less the generating undertaking, no amount can be claimed.

If the result of Step 3 is more than nil, that amount can be claimed (to the extent it is fairly and reasonably attributable to generation receipts attributed to the undertaking).

- (3) For the purposes of [subsection \(2\)](#), arrangements are “qualifying” if they are arrangements under which fuel for generating electricity is acquired and the requirement to make payments under the arrangements relates to that acquisition.
- (4) Where the arrangements provide for some or all of the cost of paying the levy to be passed to the third party (whether by way of reduction of payments or otherwise) no amount of allowable costs in relation to the arrangements may be claimed unless [subsection \(6\)](#) applies.
- (5) [Subsection \(6\)](#) applies where the arrangements provide for a fixed proportion of the cost of paying the levy to be passed to the third party.
- (6) Where this subsection applies, the proportion of the amount calculated under [subsection \(2\)](#) that is equal to the proportion of the costs of paying the levy that are not passed to the third party may be claimed.
- (7) In [this section](#)—

“third party”, in relation to a generating undertaking, means a person that is not a significant equity holder in—

- (a) where the undertaking is not a group, the undertaking, or
 - (b) where the undertaking is a group, any member of the group;
- a person (“P”), other than a member of a group of companies, is a “significant equity holder” in a company (“C”) if—
- (a) P is beneficially entitled to 20% or more of any profits available for distribution to equity holders of C,
 - (b) P would be beneficially entitled to 20% or more of any assets of C available for distribution to its equity holders on a winding-up, or
 - (c) at least 20% of C’s ordinary share capital is owned directly or indirectly by P;

a member of a group of companies is a “significant equity holder” in a company (“C”) if—

- (a) members of the group between them are beneficially entitled to 20% or more of any profits available for distribution to equity holders of C,
- (b) members of the group between them would be beneficially entitled to 20% or more of any assets of C available for distribution to its equity holders on a winding-up, or
- (c) at least 20% of C’s ordinary share capital is owned directly or indirectly by members of the group.