
STATUTORY INSTRUMENTS

1990 No. 266

ELECTRICITY

The Fossil Fuel Levy Regulations 1990

<i>Made</i>	- - - -	<i>14th February 1990</i>
<i>Laid before Parliament</i>		<i>16th February 1990</i>
<i>Coming into force</i>		
<i>regulations 1, 2 and 41</i>		<i>10th March 1990</i>
<i>remainder</i>		<i>1st April 1990</i>

The Secretary of State, in exercise of the powers conferred by sections 33, 60 and 64(1)(1) of the Electricity Act 1989(2), and of all other enabling powers, hereby makes the following Regulations:—

PRELIMINARY

Citation and commencement

1.—(1) These Regulations may be cited as the Fossil Fuel Levy Regulations 1990.

(2) Regulations 1 and 2 and 41 shall come into force on 10th March 1990, and the remainder of these Regulations shall come into force on 1st April 1990.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Electricity Act 1989;

“auditor’s certificate” means a certificate given by—

- (a) in relation to a company within the meaning of the Companies Act 1985(3), the auditor or auditors (as holding office for the time being in accordance with that Act) of the person furnishing the information; and
- (b) in relation to any other description of person, a person who is a member of one or more of the following bodies—
 - (i) the Institute of Chartered Accountants in England and Wales

(1) See the definition of “prescribed”.

(2) 1989 c. 29.

(3) 1985 c. 6.

- (ii) the Institute of Chartered Accountants of Scotland;
- (iii) the Chartered Association of Certified Accountants;
- (iv) the Institute of Chartered Accountants in Ireland;

“data”, except in regulation 37, includes assumptions and estimates;

“levy” means the levy imposed by these Regulations;

“licensed generator” means a person authorised by a licence to generate electricity;

“licensed supplier”, except in regulation 41, means a public electricity supplier and also a person authorised by a licence under section 6(2) of the Act to supply electricity within the authorised area of a public electricity supplier;

“licensed transmitter” means a person authorised by a licence to transmit electricity;

“prescribed interest rate” means a rate which is 4 per centum per annum above the base rate of Barclays Bank plc current from time to time;

“public electricity supplier” means a public electricity supplier whose authorised area falls wholly or mainly in England and Wales;

“rate of levy” means the percentage figure from time to time produced by the method set out in Schedule 2;

“relevant interest payments” means—

- (a) interest payments made pursuant to regulation 29(1); and
- (b) interest payments in respect of money placed on deposit pursuant to regulation 30;

“unit” means a measure of electrical energy equal to one kilowatt-hour, and expressions which are used in section 33 of the Act have the same meanings as in that section.

(2) For the purposes of these Regulations, the relevant categories of electricity are, in each case, units supplied to customers at any premises where the average of the maximum monthly kilowatt demand for power at such premises in the three months of highest maximum demand—

- (a) is less than 1 megawatt;
- (b) is 1 megawatt or more, but less than 10 megawatts; and
- (c) is 10 megawatts or more.

(3) Schedule 1 shall have effect for the purposes of the interpretation of Schedules 2 and 3.

(4) In these Regulations, unless the context otherwise requires—

- (a) any reference to a numbered regulation or Schedule is a reference to the regulation or Schedule bearing that number in these Regulations;
- (b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in the regulation or Schedule in which the reference occurs; and
- (c) any reference to the manner in which an amount has been calculated is a reference to—
 - (i) the data used in calculating the amount in question;
 - (ii) the manner in which that data has been used in the calculation;
 - (iii) the source from which that data has been derived; and
 - (iv) the arithmetical processes of the calculation.

IMPOSITION OF LEVY

Imposition of levy

3. Each licensed supplier shall pay a levy in respect of each qualifying month in accordance with the following provisions of these Regulations.

PRESCRIBED PERSON AND METHODS

Collector etc of levy: prescribed person

4. The Director is hereby prescribed as the person to collect payments in respect of the levy and, pursuant to the following provisions of these Regulations, to make payments to public electricity suppliers.

Payments in respect of levy etc: prescribed methods

5.—(1) The method of calculating the amount of any payment to be made under these Regulations in respect of the levy shall be the method set out in Schedule 2.

(2) The method of calculating the total cost to a public electricity supplier of purchasing electricity—

- (a) supplied by him during a qualifying month; and
- (b) generated in pursuance of qualifying arrangements,

shall be the method set out in Part I of Schedule 3.

(3) The method of calculating what would have been the total cost to that supplier of purchasing the electricity mentioned in paragraph (2) if it had been generated by a fossil fuel generating station shall be the method set out in Part II of Schedule 3.

CALCULATION ETC OF RATE OF LEVY

Calculation and notification of rate of levy

6.—(1) Subject to regulation 41, the Director shall from time to time calculate the rate of levy in accordance with the method set out in Schedule 2.

(2) Also subject to regulation 41, the Director shall notify the rate of levy to each licensed supplier not less than three months before the commencement of the qualifying month, or the first of the qualifying months, to which it applies.

(3) The Director shall also notify the rate of levy to the applicant for a licence under section 6(1)(c) or (2) of the Act—

- (a) in the case of a licence under section 6(1)(c), at the same time as the publication in relation to the licence of the notice mentioned in section 6(4) and (5) of the Act; and
- (b) in the case of a licence under section 6(2), at the time the licence is granted.

Publication of rate of levy

7. The Director shall arrange for the publication of the rate of levy calculated by him in accordance with regulation 6 in such form and such manner as he considers appropriate for bringing it to the attention of consumers of electricity supplied by licensed suppliers.

CALCULATION OF QUANTITIES OF ELECTRICITY SUPPLIED

Contractual entitlements to electricity

8. Where a licensed supplier is exclusively entitled under any agreement with the operator of a generating station specified, or of a description specified, in the agreement or with any person who is entitled to procure the delivery of electricity generated by any such station to direct the delivery to him or to a public electricity supplier or to a licensed transmitter of all or part of the electricity generated by such station and—

- (a) a direction is given by or on behalf of the supplier in or pursuant to that agreement requiring the delivery during a qualifying month of a quantity (specified in or calculated in accordance with the direction and being either the whole or a part less than the whole) of the electricity generated by that station;
- (b) the specified quantity of electricity is so generated and is delivered in accordance with such direction;
- (c) at the time of delivery it is not physically impossible for an amount of electricity equal to the specified quantity of electricity to have been conveyed from the station to the point of delivery or, as the case may be, in the aggregate to the points of supply; and
- (d) the supplier supplies in the same qualifying month a quantity of electricity at least equal to the quantity specified in or calculated in accordance with his direction,

then, and subject to evidence of the above-mentioned matters being provided to the reasonable satisfaction of the Director, and subject to regulations 9 and 10, for the purposes of these Regulations the licensed supplier shall be regarded as having supplied during that qualifying month a quantity of electricity generated by the generating station mentioned in paragraph (a) of this regulation equal to whichever is the lesser of the quantity mentioned in that paragraph and the quantity of electricity generated and delivered as mentioned in paragraph (b) of this regulation.

Transmission and distribution losses etc

9. For the purposes of these Regulations, when calculating any quantity of electricity purchased or supplied by or otherwise attributed to licensed suppliers due allowance shall be made for any quantities of such electricity which are lost or consumed during its transmission and distribution.

Embedded generators

10.—(1) For the purposes of these Regulations, when calculating any quantity of electricity purchased by a licensed supplier from an embedded generator due allowance shall be made for the fact that in such circumstances the loss or consumption of electricity during its distribution may not be the same as it is for electricity generated by generators who are not embedded generators.

(2) In this regulation “embedded generator” means the operator of a generating station which is connected directly to a system of electric lines and electrical plant operated by a licensed supplier.

PRINCIPAL PAYMENTS IN RESPECT OF LEVY ETC

Principal payments in respect of levy

11.—(1) Each licensed supplier shall make payments in respect of the levy in accordance with the following provisions of this regulation.

(2) In respect of each qualifying month, the licensed supplier shall calculate (and, in doing so, shall take into account any deductions which he may make in accordance with these Regulations) the amount of the payment due from him in accordance with—

- (a) until it is superseded by a rate notified to him by the Director in accordance with regulation 6, the rate of levy notified to him by the Secretary of State in accordance with regulation 41; and
 - (b) thereafter, the rate of levy notified to him by the Director in accordance with regulation 6.
- (3) Not more than one month after the end of each qualifying month the licensed supplier shall make the payment which he has calculated to be due from him in respect of that month to the Director.
- (4) If the licensed supplier makes the payment mentioned in paragraph (3) later than one month after the end of the qualifying month in question but before any notice has been served on him under paragraph (1) of regulation 16 or 17, he shall also pay an amount in respect of interest in accordance with regulation 29(1).

Statements etc to accompany principal payments in respect of levy

12.—(1) At the same time as he makes a payment in accordance with regulation 11, and without prejudice to any other provision of these Regulations which requires the licensed supplier to furnish the Director with any description of statement, information or other material, the licensed supplier shall furnish to the Director a statement in accordance with this regulation.

- (2) A statement in accordance with this regulation shall—
 - (a) set out the manner in which the licensed supplier has calculated the amount of the payment mentioned in paragraph (1); and
 - (b) without prejudice to the generality of sub-paragraph (a) of this paragraph, include the best estimate the supplier can make (after taking into account the effect in relation to him of regulations 8 to 10 during the qualifying month in question) of the quantities (expressed in kilowatt hours) of—
 - (i) each relevant category of electricity; and
 - (ii) electricity other than leviable electricity,supplied by him during the qualifying month in question, and of the aggregate amounts (exclusive of the levy and value added tax) charged by him (whether or not any bill or invoice has been delivered to a customer) for the quantities mentioned in sub-paragraph (i) above.
- (3) With each statement in accordance with this regulation the licensed supplier shall also furnish to the Director such evidence as may be available to him to justify the estimate mentioned in sub-paragraph (b) of paragraph (2) including (but without prejudice to the generality of the foregoing) evidence of the effect in relation to him of regulations 8 to 10 during the qualifying month.

Additional statements relating to dual fired generating stations

13.—(1) Where any quantity of electricity mentioned in a statement furnished to the Director in accordance with regulation 12 is generated by a fossil fuel generating station which is capable of being fuelled or driven otherwise than by a fossil fuel, the licensed supplier furnishing that statement shall also furnish to the Director an additional statement describing the fuels used in that generating station during the qualifying month.

- (2) Any additional statement furnished in accordance with paragraph (1) shall include—
 - (a) a description of each type of fuel used in the station during the month;
 - (b) an estimate of the quantity of each type of fuel so used; and
 - (c) an estimate of the net calorific value of each such type of fuel.
- (3) In this regulation “fossil fuel” has the same meaning as in section 32 of the Act.

Excess quantities from generating stations

14.—(1) This regulation shall apply if at any time the Director considers (after taking into account the effect of regulations 8 to 10) that any one or more of the licensed suppliers is or (as the case may be) are purporting to have supplied during any qualifying month quantities of electricity generated by a relevant station or stations—

- (a) which are greater than the quantities which the Director has reason to believe were generated by such station or stations (as adjusted pursuant to regulations 9 and 10) during that qualifying month; or
- (b) which the Director, whether by reason of evidence produced to him pursuant to regulation 8 or otherwise, is not satisfied was attributable to electricity generated by such station or stations (as adjusted pursuant to regulations 9 and 10) during that qualifying month.

(2) In any case where this regulation applies, the Director may (after taking into account any relevant evidence produced for the purposes of regulations 8 to 10) reduce the quantities which the relevant supplier is purporting to have supplied in the appropriate manner.

(3) For the purposes of paragraph (2), the appropriate manner is a manner which takes into account evidence produced for the purposes of regulations 8 to 10 and, subject thereto, which causes each quantity purported to have been supplied by a supplier mentioned in paragraph (1) as reduced by the Director to bear the same proportion to the aggregate of the quantities as so reduced as each quantity purported to have been so supplied bears to the aggregate of such quantities.

(4) As soon as he has reduced quantities in accordance with paragraphs (2) and (3), the Director shall serve on each licensed supplier concerned a notice setting out any quantities so reduced and the quantities from which they have been reduced which are relevant to that supplier.

(5) As soon as he receives a notice served under paragraph (4), the licensed supplier shall forthwith recalculate the amount of the payment in respect of the levy due from him in respect of the qualifying month in question on the basis of the reduced quantities set out in that notice, and as the circumstances may require—

- (a) the supplier shall forthwith thereafter pay to the Director the difference between—
 - (i) the amount already due from him in respect of that month; and
 - (ii) the amount shown to be due by the recalculation in accordance with this paragraph;
 or
- (b) the supplier may deduct from the next payment due from him under regulation 11 an amount equal to the difference between the amounts mentioned in sub-paragraph (a) of this paragraph,

(together, in each case, with an amount in respect of interest in accordance with regulation 29).

(6) At the same time as he makes a payment in accordance with paragraph (5), the licensed supplier shall furnish the Director with a copy of the recalculation made in accordance with that paragraph.

(7) Any reference in this regulation to a relevant station or stations is a reference to a particular generating station or generating stations of a particular description.

Unclaimed quantities of non-leviable electricity

15.—(1) This regulation shall apply if at any time it becomes apparent to the Director (after taking account of the effect of regulations 8 to 10 and 14) that licensed suppliers are purporting to have supplied during any qualifying month quantities of electricity other than leviable electricity which are less than the quantities of such electricity which the Director has reason to believe were generated during that month.

(2) In any case where this regulation applies, the Director may reduce in the appropriate manner the quantities of leviabie electricity set out in the statements for the qualifying month in question furnished by licensed suppliers in accordance with regulation 12.

(3) For the purposes of paragraph (2) the appropriate manner is a manner which causes each quantity as reduced by the Director to bear the same proportion to the aggregate of the quantities as so reduced as each quantity of leviabie electricity set out in the statements mentioned in that paragraph bears to the aggregate of the quantities so set out.

(4) As soon as he has reduced quantities in accordance with paragraph (2) and (3), the Director shall serve on each licensed supplier concerned a notice setting out any quantities so reduced and the quantities from which they have been reduced which are relevant to that supplier.

(5) As soon as he receives a notice served under paragraph (4), the licensed supplier shall forthwith recalculate the amount of the payment in respect of the levy due from him in respect of the qualifying month in question, and he may deduct from the next payment due from him under regulation 11 an amount equal to the difference between—

- (a) the amount already due from him in respect of that qualifying month; and
- (b) the amount shown to be due by the recalculation in accordance with this paragraph,

(together with an amount in respect of interest in accordance with regulation 29(2)).

(6) The licensed supplier shall furnish the Director with a copy of the recalculation made in accordance with paragraph (5) at the same time as he makes the next payment mentioned in that paragraph.

DEFAULTS ETC IN MAKING PAYMENTS IN RESPECT OF LEVY

Defaults in making payments in respect of levy

16.—(1) If any licensed supplier fails to make a payment in respect of the levy pursuant to regulation 11, the Director shall as soon as practicable serve notice on the supplier—

- (a) stating that the supplier has failed to make the payment; and
- (b) after having regard to the information relating to the supplier available to him at the time, setting out the amount which he believes that the supplier should have paid and the manner in which the amount has been calculated.

(2) Forthwith upon receipt of a notice served on him under paragraph (1) the licensed supplier shall pay to the Director the amount set out in the notice (together with an amount in respect of interest in accordance with regulation 29(1)).

(3) No notice under paragraph (1) may be served after the expiry of a period of 3 years commencing on the last day of the qualifying month in question.

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

17.—(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 in respect of a qualifying month pursuant to these Regulations is less 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) Forthwith upon receipt of a notice served on him under paragraph (1) the licensed supplier shall pay to the Director 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 29(1)).

(3) No notice under paragraph (1) may be served after the expiry of a period of 3 years commencing on the last day of the qualifying month in question.

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

18.—(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 in respect of a qualifying month pursuant to these Regulations is less than it should have been, he shall serve notice on the Director setting out—

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

and with his notice the licensed supplier shall pay to the Director 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 29(1)).

(2) No notice under paragraph (1) may be served after the expiry of a period of 3 years commencing on the last day of the qualifying month in question.

SUPPLY BELOW MARKET PRICE

Supply below market price: additional calculations to be made by licensed supplier

19.—(1) In addition to the calculation required by paragraph (2) of regulation 11, in respect of each qualifying month the licensed supplier shall also calculate in the appropriate manner and in relation to each relevant category of electricity the aggregate amount (exclusive of the levy and value added tax) which would have been charged if the electricity in that category supplied by him during that month had been supplied at the market price.

(2) A copy of the calculation made in accordance with paragraph (1) shall be furnished to the Director at the same time as the licensed supplier furnishes him with the statement in accordance with regulation 12.

(3) Subject to paragraph (4), for the purposes of paragraph (1) the appropriate manner is given by the formula—

$$A \times \frac{\sum_j (B_j \times C_j)}{\sum_j B_j}$$

where—

A is the number of units of electricity in each relevant category supplied by the licensed supplier in the qualifying month;

B_j is the number of units of electricity purchased by the licensed supplier at grid supply points in each half hour during the qualifying month;

C_j is the market price applicable to that half hour during that month; and

j represents each half hour in that month.

(4) In any case where $\sum_j B_j$ is zero, the appropriate manner for the purposes of paragraph (1) is given by the formula—

$$A \times \frac{\sum_j C_j}{D}$$

where—

A, C_j and j have the values or meanings given in paragraph (3); and

D is the number of half hours in the qualifying month.

(5) In this regulation and in regulations 20 and 21 “market price” means the price any licensed supplier would have had to pay for a unit of electricity purchased for delivery during the half hour in respect of which the calculation is being made and in relation to which no terms as to price, other than those at which any other licensed supplier would have been entitled to purchase that unit, are available.

Supply below market price: additional statements to be furnished to prescribed person

20.—(1) If any calculation in accordance with regulation 19 produces an amount which is higher than the comparable amount in the statement mentioned in regulation 12, the licensed supplier shall furnish the Director with a statement setting out—

- (a) any price below the market price which he is charging for any electricity within the relevant category in question;
- (b) the manner in which that price has been calculated; and
- (c) any reasons which the supplier may have to justify a belief on his part that it is appropriate in all the circumstances for amounts payable by him in respect of the levy to be calculated by reference to that price.

(2) The statement mentioned in paragraph (1) shall be furnished to the Director at the same time as the licensed supplier furnishes him with the statement in accordance with regulation 12.

(3) The licensed supplier shall furnish the Director with a further statement on each occasion when there is a change in any matter set out in the statement mentioned in paragraph (1).

(4) A statement under paragraph (3) shall set out the change which has taken place, and the reasons for that change.

Supply below market price: action by prescribed person

21.—(1) The Director shall consider the matters set out in any statement furnished under regulation 20 and may require the licensed supplier to provide an auditor’s certificate as to whether—

- (a) any price set out in such statement; and
- (b) the manner in which that price has been calculated,

have been fairly stated and properly compiled.

(2) The Director may also serve notice on the licensed supplier requiring him to provide further reasons justifying any price below market price which the licensed supplier has set out in a statement under regulation 20.

(3) If the Director does not accept that it is appropriate in all the circumstances for amounts payable by the licensed supplier in respect of the levy to be calculated by reference to any price being charged for any electricity within the category in question he shall, within 28 days of the date upon which he received the statement or (if requested) the auditor’s certificate or further reasons, serve on the licensed supplier a notice under regulation 22.

(4) The Director may also, after considering any calculation furnished under regulation 19, by notice served on the licensed supplier require the supplier to furnish him with a statement setting out—

- (a) any price which the licensed supplier is charging for any electricity within each relevant category;
- (b) the manner in which that price has been calculated; and
- (c) any reasons which the supplier may have to justify a belief on his part that it is appropriate in all the circumstances for amounts payable by him in respect of the levy to be calculated by reference to that price,

and the Director may also in like manner require the licensed supplier to provide an auditor's certificate that any calculation so furnished is fairly stated and properly compiled.

(5) If, after having regard to any statement furnished under paragraph (4), and to any auditor's certificate provided under that paragraph, the Director considers that any price charged by the licensed supplier is less than the price which the Director thinks it would be appropriate to charge for any electricity within the relevant category in question, he shall serve on the licensed supplier a notice under regulation 22.

(6) Any auditor's certificate required to be provided under this regulation shall be provided as quickly as is reasonably practicable and in any event not more than 60 days after the date of the Director's request.

Supply below market price: prescribed person's notice

22.—(1) Subject to paragraphs (2) to (4) a notice served by the Director on a licensed supplier under this regulation shall set out—

- (a) the Director's reasons for not accepting that it is appropriate in all the circumstances for amounts payable by the supplier in respect of the levy to be calculated by reference to any price charged during the qualifying month or months in question for any electricity within the relevant category in question; and
- (b) the price which the Director thinks it would be appropriate to charge for that purpose.

(2) When deciding what price to set out pursuant to sub-paragraph (b) of paragraph (1) in a notice under this regulation the Director shall in particular have regard to—

- (a) the quantities of electricity being supplied by the licensed supplier;
- (b) load factors;
- (c) the voltage at which any supply is given;
- (d) the time of year and the time of the day at which any supply is given;
- (e) any conditions according to which a supply may be interrupted;
- (f) the location of customers receiving a supply from the supplier;
- (g) the date and duration of any agreement under which any customer is receiving a supply from the supplier.

(3) Any price set out pursuant to sub-paragraph (b) of paragraph (1) in a notice under this regulation served on a public electricity supplier shall not be so high as to cause the average charge per unit treated as charged by that supplier to exceed the maximum average charge per unit which he could make under the terms of his licence.

(4) No notice under this regulation in respect of a particular qualifying month may be served after the expiry of a period of 3 years commencing on the last day of the month in question.

Supply below market price: balancing payments in respect of levy

23.—(1) Upon receipt of a notice under regulation 22, the licensed supplier shall as quickly as practicable calculate the amount which would have been payable in respect of the relevant qualifying

month, or each of the relevant qualifying months, if that amount had been calculated by reference to the price set out in that notice.

(2) As soon as he has completed the calculation mentioned in paragraph (1), the licensed supplier shall pay to the Director an amount equal to the difference between—

- (a) the amount produced by that calculation; and
- (b) the amount already due in respect of the levy in respect of the relevant qualifying month, or each of the relevant qualifying months,

(together with an amount in respect of interest in accordance with regulation 29(1)).

(3) At the same time as he makes a payment in accordance with paragraph (2) the licensed supplier shall furnish to the Director a statement of the manner in which he has calculated that payment.

(4) In this regulation “relevant qualifying month” means a qualifying month in respect of which the licensed supplier was due to make a payment pursuant to regulation 11 and in relation to which the Director has served a notice under regulation 22.

OVER-PAYMENTS IN RESPECT OF LEVY

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

24.—(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 in respect of a qualifying month pursuant to these Regulations 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 in respect of the qualifying month in question) 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 29(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 the qualifying month in question.

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

25.—(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 in respect of a qualifying month 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 (2) 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 in respect of the qualifying month in question) 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 29(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 the qualifying month in question.

Over-payments in respect of levy: adjustments

26. When any question arising from a notice served under paragraph (2) of regulation 24 or 25 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 29).

Deductions: general

27.—(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 24;
- (d) paragraph (4) of regulation 25; or
- (e) paragraph (b) of regulation 26;

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 29(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 in respect of a qualifying month shall nevertheless furnish to the Director a statement in relation to that month 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.

APPLICATION AND DISTRIBUTION ETC OF SUMS COLLECTED

Application and distribution of levy

28.—(1) Payments received by the Director in respect of a qualifying month pursuant to any of the preceding provisions of these regulations shall be applied and distributed by him in accordance with the following provisions of this regulation.

(2) The Director shall deduct and retain from the payments mentioned in paragraph (1) the amount of the administrative expenses incurred by him in respect of the qualifying month as the person prescribed by these Regulations for the purposes of section 33(1)(b) and (c) of the Act.

(3) Subject to paragraphs (6) and (7), the balance of the payments mentioned in paragraph (1) shall be applied to the making of payments in respect of each qualifying month to each public electricity supplier in respect of the amounts contemplated by subsections (3) and (6)(c) of section 33 of the Act as being payable to that supplier in respect of that month.

(4) Each payment to a public electricity supplier pursuant to paragraph (3) shall be made to the supplier, or as he may direct.

(5) Each payment pursuant to paragraph (3) shall, without prejudice to paragraphs (6) and (7), be made not less than one month after the end of the qualifying month mentioned in paragraph (1) but thereafter as soon as practicable.

(6) If any of the payments mentioned in paragraph (1) are not received by the Director in time to be applied and distributed in accordance with the preceding provisions of this regulation, such payments shall, as soon as practicable after the payment mentioned in paragraph (5) has been made, be added in the appropriate amounts to the next payments due to be made under this regulation to the public electricity suppliers, or as they may direct.

(7) For the purposes of paragraph (6), the appropriate amount as regards each payment mentioned in that paragraph in relation to each electricity supplier is an amount equal to the difference between—

- (a) the payment actually made to the supplier under paragraph (5); and
- (b) the payment which would have been made to that supplier if the payment first mentioned in this paragraph had been received by the Director in time for it to have been applied and distributed in accordance with paragraphs (2) to (5).

(8) For the purposes of paragraphs (5) and (6), in deciding what is practicable the Director shall have regard to the need to protect confidential information relating to individuals.

Interest on payments and deductions in respect of levy

29.—(1) Interest at the prescribed interest rate and for the prescribed period shall be paid by any licensed supplier on the amount of any payment made in accordance with—

- (a) paragraph (4) of regulation 11;
- (b) paragraph (5)(a) of regulation 14;
- (c) paragraph (2) of regulation 16;
- (d) paragraph (2) of regulation 17;

- (e) paragraph (1) of regulation 18;
- (f) paragraph (2) of regulation 23; or
- (g) paragraph (a) of regulation 26.

(2) An amount equal to interest at the base rate of Barclays Bank plc current from time to time during the prescribed period shall be added to the amount of any deduction made in accordance with—

- (a) paragraph (5)(b) of regulation 14;
- (b) paragraph (5) of regulation 15;
- (c) paragraph (4) of regulation 24;
- (d) paragraph (4) of regulation 25;
- (e) paragraph (b) of regulation 26; or
- (f) regulation 27.

(3) In this regulation “prescribed period” means the period beginning on the day which is one month after the expiry of the qualifying month to which the payment mentioned in paragraph (1) or, as the case may be, the deduction mentioned in paragraph (2) relates and ending on the day on which the payment or deduction is actually made or, in the case of a payment, would have been made but for a deduction in accordance with these Regulations.

Investment of sums collected

30.—(1) Any money received by the Director pursuant to any of the preceding provisions of these Regulations (other than regulation 29(1)) shall, until such time as it is required for the making of payments pursuant to regulation 28, be invested in the approved manner.

(2) All relevant interest payments shall, until they are required for the making of payments pursuant to regulation 32, be invested in the approved manner.

(3) For the purposes of this regulation, any money or relevant interest payment is invested in the approved manner if, utilising one or more of the Bank of England and banks which are members of the Committee of London and Scottish Bankers, it is—

- (a) invested on the sterling United Kingdom inter-bank money market; or
- (b) placed on deposit in sterling in an interest bearing account or accounts.

Prescribed person’s records and accounts

31.—(1) The Director shall keep separate records of—

- (a) all payments received by him pursuant to any of the preceding provisions (except regulations 29 and 30) of these Regulations;
- (b) all relevant interest payments received by him; and
- (c) all administrative expenses incurred by him in connection with the levy.

(2) The Director shall maintain one or more bank accounts for all payments received by him pursuant to these Regulations, and shall keep such account or accounts separate from all other bank accounts maintained by him.

(3) The Director shall send a statement of the amount standing for the time being to the credit of any such account as is mentioned in paragraph (2) to the public electricity suppliers at intervals of not more than three months, the first such statement being sent to the suppliers not later than 30th June 1990.

(4) The Director shall also send a statement of the administrative expenses incurred by him in connection with the levy to the licensed suppliers at intervals of not more than six months, the first such statement being sent to the suppliers not later than 30th September 1990.

Application of relevant interest payments

32.—(1) Unless the public electricity suppliers request otherwise, all relevant interest payments standing to the credit of any such account as is mentioned in paragraph (2) of regulation 31 at the end of a financial year shall be added in the appropriate proportion to the payments immediately next due to be made under paragraph (5) of regulation 28 to those suppliers, or as they may direct.

(2) For the purposes of paragraph (1), the appropriate proportion is the proportion which the payment to the particular public electricity supplier under regulation 28 bears to the aggregate of all the payments to be made at the time under that regulation.

(3) Before the Director agrees to any such request as is mentioned in paragraph (1), he shall have regard to the need to protect confidential information relating to individuals.

(4) In this regulation “financial year” means a period of 12 months ending on 31st March.

INFORMATION PROVISIONS

Provision of information to prescribed person

33.—(1) Subject to paragraph (2), and without prejudice to regulation 34, the Director may by notice served on any person who is—

- (a) a licensed supplier;
- (b) a licensed transmitter; or
- (c) a licensed generator,

require that person to furnish, at such reasonable time and place as may be, and in the form and manner, specified in the notice, to the Director such information of a description contained in Schedule 4 as may be specified in the notice.

(2) No person shall be required, when complying with a notice under paragraph (1), to give any information which he could not be compelled to give in evidence in civil proceedings in the High Court.

(3) Any person furnishing information to the Director in accordance with a notice under paragraph (1) shall, if the notice so requires, provide an auditor’s certificate that such information, or any such part of that information as may be specified in the notice, is fairly stated and properly compiled.

Information in the form of estimates

34. Where any person is required by notice under regulation 33 to furnish information in the form of estimates, he shall use all reasonable care, having regard to all the relevant circumstances, to ensure that the information so furnished is complete, accurate and reliable.

Conflicts between information furnished to prescribed person

35.—(1) This regulation applies in any case where—

- (a) information of a description contained in a Part of Schedule 4 has been furnished to the Director by any person in accordance with a notice under regulation 33; and
- (b) that information is, or appears to the Director to be, inconsistent with other information in the possession of the Director pursuant to these Regulations.

- (a) (2) (a) Where the information is of a description contained in Part I of Schedule 4, the Director may place greater reliance on information furnished by a licensed supplier;
 - (b) where the information is of a description contained in Part II of that Schedule, the Director may place greater reliance on information furnished by a licensed transmitter; and
 - (c) where the information is of a description contained in Part III of the Schedule, the Director may place greater reliance on information furnished by a licensed generator.
- (3) Subject to paragraph (2), in any case the Director may place greater reliance on information which is accompanied by an auditor's certificate that it is fairly stated and properly compiled.

Custody and use of information furnished to prescribed person

36.—(1) All information furnished to the Director pursuant to these Regulations shall be kept separate from other information held by the Director.

(2) The information mentioned in paragraph (1) shall be kept in containers or other media which cannot be opened or otherwise interfered with, and to which access cannot be had, except in case of emergency, by any person not entitled to use or have access to such information.

(3) The information mentioned in paragraph (1) shall be used—

- (a) by the Director; and
- (b) by any staff or other person employed or engaged by the Director,

in each case only for purposes connected with the levy.

Retention and inspection of records

37.—(1) Each licensed supplier, each licensed transmitter and each licensed generator shall retain for the prescribed period any relevant records.

(2) During the prescribed period each licensed supplier, each licensed transmitter and each licensed generator shall permit any person who is authorised in writing by the Director for the purpose, on production of his authority, to inspect and to take copies of or extracts from any relevant records being retained pursuant to this regulation.

(3) In this regulation—

“prescribed period”, in relation to any relevant records, means the period of five years commencing on the date on which information derived from those records is either—

- (a) in the case of a licensed supplier, first used by the supplier for the purpose of calculating or recalculating the amount of any payment due from him in respect of the levy; or
- (b) in the case of a licensed supplier, a licensed transmitter or a licensed generator, first furnished to the Director pursuant to a notice under regulation 33;

“records” includes any document, book, computer program, print-out, tape, core, film, disk or other tangible data whatsoever and, in relation to any single item of information, means any one of them;

“relevant records” means any records from which has been derived—

- (a) any information used by a licensed supplier for the purpose of calculating the amount of any payment due from him in respect of the levy; or
- (b) any information furnished to the Director by a licensed supplier, a licensed transmitter or a licensed generator pursuant to a notice under regulation 33.

SUPPLEMENTARY

Deemed delivery of posted documents

38.—(1) Any document required or authorised by these Regulations to be served (whether the expression “serve” or the expression “send” or “give” or any other expression is used) on any person shall, if sent by first class post, be deemed to have been delivered 48 hours from the time of posting.

(2) Paragraph (1) shall apply only for the purpose of determining when, for the purposes of these Regulations, a document sent by post is deemed to be delivered, and shall not affect any obligation of any person to furnish any information set out in the document.

Inspection of meters

39.—(1) Each licensed supplier, each licensed transmitter and each licensed generator shall permit any competent person who is authorised by the Director for the purpose, on the production of his authority, to examine and test any relevant meter for all or any of the following purposes—

- (a) determining the pattern or construction of the meter;
- (b) determining the manner of its installation;
- (c) determining whether the meter is in proper order for ascertaining the quantities of electricity passing through it; and
- (d) establishing the margins for error within which it is operating.

(2) In this regulation “relevant meter” means a meter which—

- (a) is under the control of the licensed supplier, licensed transmitter or licensed generator or to which a licensed supplier (or a person authorised by a supplier) has access; and
- (b) is used for ascertaining any quantities of electricity provided to or supplied by a licensed supplier.

PERSONS CEASING TO BE LICENSED SUPPLIERS

Persons ceasing to be licensed suppliers

40.—(1) Any person who ceases to be a licensed supplier shall, as regards any qualifying month or part of a qualifying month during which he was a licensed supplier, continue to be treated as if he were a licensed supplier for so long as there is in relation to him—

- (a) any liability arising under these Regulations and not fully discharged; or
- (b) any right so arising and not fully satisfied.

(2) Where any person who ceases to be a licensed supplier is not liable, by reason of such cessation, to make any further payments under regulation 11, any requirement in these Regulations to make a payment with any further payment under regulation 11 (however such further payment may be described) shall be construed as a requirement to make the payment forthwith, and regulation 29 shall apply as appropriate.

(3) Where any person who ceases to be a licensed supplier is unable, by reason of such cessation, to exercise any right of deduction from payments due under regulation 11 in pursuance of—

- (a) paragraph (5)(b) of regulation 14;
- (b) paragraph (5) of regulation 15;
- (c) paragraph (4) of regulation 24;
- (d) paragraph (4) of regulation 25;
- (e) paragraph (b) of regulation 26; or

(f) regulation 27;

as read (in each case) with regulation 29, the Director shall make to that person a payment of an amount equal to the amount which could not be so deducted.

TRANSITIONAL PROVISIONS

Transitional provisions: calculation and notification of initial rate of levy

41.—(1) The Secretary of State shall forthwith calculate a rate of levy applicable to the first qualifying month during which regulations 3 to 40 and 42 are in force, and to each subsequent month after that month until the first month to which is applicable a rate of levy notified to licensed suppliers by the Director in accordance with regulation 6.

(2) The rate of levy mentioned in paragraph (1) shall be calculated by applying the method set out in Schedule 2 to such estimates as the Secretary of State may have of the factors mentioned in that method.

(3) As soon as he has calculated a rate of levy in accordance with paragraphs (1) and (2), the Secretary of State shall notify that rate of levy to licensed suppliers.

(4) In this regulation “licensed suppliers” means the persons in England and Wales to whom, having regard to the provisions of section 4 of the Act, licences under section 6(1)(c) and (2) of the Act need to be granted before the coming into force of the said section 4.

(5) The Secretary of State shall also notify the rate of levy calculated in accordance with paragraphs (1) and (2) to any person to whom a licence under section (6)(1)(c) or (2) of the Act is granted at any time before the Director has calculated and notified a rate of levy in accordance with regulation 6.

QUALIFYING ARRANGEMENTS: PRESCRIBED REQUIREMENTS

Qualifying arrangements: prescribed requirements

42. There are hereby prescribed as the requirements which arrangements must satisfy in order to count as qualifying arrangements for the purposes of section 33 of the Act—

- (a) that if the arrangements provide for the giving to the person prescribed for the purposes of section 33(1)(b) of an authority to make all payments mentioned in section 33(1)(c) to a single person on behalf of all the public electricity suppliers who are party to the arrangements, such authority shall be—
 - (i) in a form acceptable to the person so prescribed; and
 - (ii) irrevocable (except by the unanimous agreement of all the suppliers who are party to the arrangements) for so long as any payments mentioned in section 33(1)(c) fall to be made to such suppliers; and
- (b) in relation only to arrangements securing the availability of capacity from any non-fossil fuel generating station and made in consequence of any order under section 32 of the Act made after 31st March 1990, that, before evidence of the making of the arrangements is produced to the Director, particulars of those arrangements shall have been furnished by the public electricity suppliers concerned to the Director General of Fair Trading to enable him to express a view (if he so wishes) on the effect of the arrangements on competition.

14th February 1990

John Wakeham
Secretary of State for Energy

SCHEDULE 1

Regulation 2(3)

Interpretation of Schedules 2 and 3

In this Schedule and 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;

“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.

SCHEDULE 2

Regulation 5(1)

Method of calculating amount of any payment in respect of levy

1. In this Schedule:

the superscript " is used to denote the first estimate made by the Director of the amount in question for the period in question to calculate the levy rate for that period;

the superscript ' is used to denote the revised estimate made by the Director of that amount to calculate the levy rate for the period immediately following that period; and

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

2. 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;

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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;

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 ; and

K_y is the correction factor for y calculated in accordance with paragraph 5.

3. 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 the percentage figure R_y where R_y is the percentage figure r_y given by the formula—

$$r_y = \frac{K_y + D_y''}{X_y''} \times 100$$

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

4. In the formula in paragraph 3 the value of D_y'' is given by the formula—

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

5. In the formula in paragraph 3 the correction factor K_y shall be the amount of money, whether positive or negative, given by the following formula—

$$K_y = \left[(D_{y-1}' - D_{y-1}'') - \frac{R_{y-1}}{100} \times (X_{y-1}' - X_{y-1}'') + \left(\frac{r_{y-1}}{100} \times X_{y-1}'' \right) \right] \times \left[1 + \frac{I_{y-1}}{100} \right] \\ + \left[(D_{y-2}' - D_{y-2}'') - \frac{R_{y-2}}{100} \times (X_{y-2}' - X_{y-2}'') \right] \times \left[1 + \frac{I_{y-2}}{100} \right] \times \left[1 - \frac{I_{y-1}}{100} \right]$$

where—

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 $y - 2$.

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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 12 inclusive within period y, 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 Ay in paragraph 2 of Schedule 2) is given by the formula—

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

where

Σ_n signifies the summation over all the qualifying months within the period y;

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 By in paragraph 2 of Schedule 2) is given by the formula—

$$B_{yp} = \sum_n \sum_j (Y_{nj} \times Z_{nj}) + \sum_n \left[(V - \sum_j Y_{nj}) \times \left(\frac{\sum_j Z_{nj}}{W_n} \right) \right]$$

3. In the formula in paragraph 2—

Σ_n signifies the summation over all the qualifying months within period y;

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

Y_{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_n 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.

SCHEDULE 4

Regulation 33

Descriptions of information which certain persons may be required to furnish

PART I

1. Estimates for any year or part of a year of–
 - (a) non-fossil fuel generating capacity available in pursuance of qualifying arrangements, expressed in megawatts;
 - (b) electricity from non-fossil fuel generating stations supplied in pursuance of qualifying arrangements, expressed in megawatt hours; and
 - (c) total amounts falling due under qualifying arrangements, expressed in pounds sterling, and the terms of any qualifying arrangements.
2. Particulars of any changes expected to occur during the year in any total amounts falling due mentioned in paragraph 1(c).
3. Estimates for any year or part of a year of–
 - (a) total quantities of electricity in each relevant category to be supplied by a licensed supplier, excluding quantities sold to other suppliers, as measured by a meter installed for the purpose at the point of supply and expressed in kilowatt hours;
 - (b) total quantities of electricity in each relevant category to be supplied by a licensed supplier, excluding quantities sold to other suppliers, without being measured by a meter, expressed in kilowatt hours, with particulars of the manner in which such quantities have been calculated;
 - (c) total quantities of leviable and other electricity to be delivered to a licensed supplier;
 - (d) total quantities of electricity delivered to any system of electric lines and electrical plant operated by a licensed supplier;
 - (e) loss factors applicable to, and actual kilowatt hours lost during, the conveyance of electricity by means of a system of electric lines and electrical plant operated by a licensed supplier;

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- (f) average revenue from the supply of electricity in each relevant category by a licensed supplier after deduction of value added tax and payments in respect of the levy, expressed in pence per kilowatt hour;
 - (g) total revenue, including the levy but excluding value added tax, from the supply of electricity in each relevant category;
 - (h) total quantities of electricity sold to a licensed supplier by another licensed supplier, expressed in kilowatt hours; and
 - (i) total quantities of electricity purchased by a licensed supplier—
 - (i) in circumstances where, in relation to a unit of electricity purchased for delivery during a particular half hour, no terms as to price, other than those at which any other licensed supplier would have been entitled to purchase such unit, are available to the supplier; and
 - (ii) in other circumstances.
4. Estimates of the amounts of any advance payments or deferred payments to be made in any year, and of the dates upon which any such payments are to be made.
5. Actual figures for any year or part of a year in respect of which an estimate has been, or could have been required to be, furnished.
6. In so far as they are not within paragraphs 1 to 5, particulars of the matters mentioned in regulation 22(2).
7. In the case of a licence under section 6(1)(c) or (2) of the Act granted after the coming into force of regulations 3 to 40 and 42, the date upon which the licence holder intends to start undertaking the activities authorised by the licence.
8. The date upon which any licence holder intends to cease carrying on any activities authorised by his licence.

PART II

9. Estimates for any year or part of a year of—
- (a) the price a licensed supplier would have to pay for a unit of electricity purchased for delivery during a particular half hour and in relation to which no terms as to price, other than those at which any other licensed supplier would have been entitled to purchase that unit, are available;
 - (b) total quantities of leviable and other electricity delivered to or from a transmission system in England and Wales, expressed in kilowatt hours;
 - (c) total quantities of electricity delivered to a transmission system in England and Wales from—
 - (i) a transmission system in Scotland; or
 - (ii) an interconnectorexpressed, in either case, in kilowatt hours; and
 - (d) loss factors applicable to, and actual kilowatt hours lost during, the conveyance of electricity by means of a transmission system in England and Wales.
10. Actual figures for any year or part of a year in respect of which an estimate has been, or could have been required to be, furnished.

PART III

- 11.** Estimates for any year or part of a year of—
- (a) the total quantities of electricity generated in non-fossil fuel generating stations to be acquired by each licensed supplier otherwise than in pursuance of qualifying arrangements, as measured at the busbar side of the busbar selection isolators and expressed in kilowatt hours;
 - (b) total quantities of electricity generated in non-fossil fuel generating stations to be acquired pursuant to qualifying arrangements, as measured at the busbar side of the busbar selection isolators and expressed in kilowatt hours; and
 - (c) total quantities of electricity generated in fossil fuel generating stations to be acquired by each licensed supplier, as measured at the busbar side of the busbar selection isolators and expressed in kilowatt hours.
- 12.** Particulars of any changes expected to occur during the year in any total quantity mentioned in paragraph 10.
- 13.** In the case of a non-fossil generating station which is capable of being fuelled by a fossil fuel—
- (a) a description of each type of fuel which may be used in the station;
 - (b) the quantities of each type of fuel estimated to be used in the station during a particular period; and
 - (c) the types, quantities and net calorific values of fuel actually used in the station during a particular period.
- 14.** Actual figures for any year or part of a year in respect of which an estimate has been, or could have been required to be, furnished.

Interpretation

15. In paragraph 9(c)(ii) of this Schedule “interconnector” means a system of electric lines and plant by means of which electricity may be conveyed between the United Kingdom and any other country, or between England and Scotland.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations provide for the imposition of a levy on all persons authorised by a licence under section 6(1)(c) or (2) of the Electricity Act 1989 to supply electricity in England and Wales, and for the product of that levy to be paid (after certain deductions) to the public electricity suppliers in England and Wales.

Regulations 1 and 2 (and Schedule 1, which is introduced by regulation 2(3)) provide for the citation, commencement and interpretation of the Regulations. Regulation 41 is brought into force early, in order that licensed suppliers may know the initial rate of levy before the levy system begins to operate on 1st April 1990.

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Regulation 3 imposes the levy; regulation 4 prescribes the Director General of Electricity Supply as the person to collect payments in respect of the levy, and to make payments to the public electricity suppliers; and regulation 5 introduces Schedule 2, which sets out the method of calculating payments in respect of the levy, and Schedule 3, which sets out the methods of calculating the actual and hypothetical costs of purchasing certain descriptions of electricity.

Regulations 6 and 7 provide for the Director to calculate the rate of levy from time to time, and for that rate to be notified to persons concerned and for its publication.

Regulations 8 to 10 set out certain provisions relating to the calculation of quantities of electricity supplied. Regulation 8 provides for quantities delivered pursuant to certain contracts to be treated as quantities supplied; regulation 9 requires transmission and distribution losses to be taken into account when calculating quantities of electricity supplied; and regulation 10 deals with generating stations which are directly connected to a distribution system.

Regulations 11 to 15 set out the basic system for payments by licensed suppliers in respect of the levy. Each month the licensed supplier must calculate the amount he owes, and pay that amount to the Director (regulation 11). Each payment must be accompanied by a statement showing how the amount paid has been calculated and giving details of quantities of electricity supplied during the month (regulation 12). Provision is made for additional material to be supplied in certain cases (regulation 13), and for the attribution to licensed suppliers of certain quantities of electricity and for consequential balancing payments (regulations 14 and 15).

Regulations 16 to 18 deal with under-payments in respect of the levy, and make provision for further payments where necessary. Regulations 19 to 23 deal with cases where electricity is supplied at a price below the market price (as defined in regulation 19(5)). In such cases, the licensed supplier is required to make certain calculations, and to provide them and certain further material to the Director (regulations 19 and 20). The Director may set an alternative price and, if he does, the licensed supplier must make a further payment calculated on the basis of that price (regulations 21 to 23). Regulations 24 to 27 deal with over-payments in respect of the levy. A licensed supplier who has paid more than he should is able to deduct the excess from his subsequent payments in respect of the levy.

Regulation 28 requires the Director, out of the payments he has received and after deduction of his administrative expenses, to make monthly payments to the public electricity suppliers. Provision is also made for the payment of interest on sums not received within the period specified in regulation 11(3) (regulation 29); for moneys received by the Director to be invested (regulation 30), and for him to keep records of moneys received and his administrative expenses (regulation 31); and for accumulated interest payments (those received from licensed suppliers, as well as those paid on moneys invested) to be paid to the public electricity suppliers (regulation 32). Regulations 33 to 37 deal with information which the Director may require. Regulation 33 enables him to call for information of any description set out in Schedule 4; regulation 34 sets standards for information in the form of estimates; and regulation 35 provides a means to assist the Director in resolving conflicts between contradictory information. Regulation 36 requires the Director to keep information relating to the levy separate from other information held by him; and regulation 37 provides for the retention and inspection of the records from which has been derived information furnished to the Director.

Regulations 38 and 39 contain supplementary provisions relating to the delivery of posted documents and the inspection of meters.

Regulation 40 deals with persons who cease to be licensed suppliers, and ensures that their rights and liabilities arising under the Regulations will be fully satisfied or (as appropriate) discharged. Regulation 41 requires the Secretary of State to calculate the initial rate of levy, and to notify it to persons concerned. Regulation 42 sets out the prescribed requirements which must be satisfied if arrangements are to fall within the definition of “qualifying arrangements” set out in section 33(8) of the 1989 Act.

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