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STATUTORY INSTRUMENTS

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**2001 No. 3268**

The Electricity from Non-Fossil Fuel Sources  
Saving Arrangements (Amendment) Order 2001

**Modifications to section 33**

**3.—**(1) Section 33 of the Electricity Act 1989<sup>(1)</sup> (as it continues to have effect in England and Wales by virtue of article 11 of the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000 and notwithstanding its repeal by section 66 of the Utilities Act 2000) shall be modified as set out in the following paragraphs of this article.

(2) In subsection (1) paragraphs (a) and (c) shall be replaced with the following—

“(a) for the imposition on electricity suppliers of a levy in respect of each qualifying month;”;

“(c) for the making of payments by that person to the nominated person, out of the payments so collected.”.

(3) Subsections (5), (5A) and (6) shall be replaced with the following—

“(5) The amount of any payment required to be made to the nominated person by regulations under this section shall be the difference between—

(a) the total cost incurred by the nominated person in purchasing electricity which was generated in pursuance of qualifying arrangements; and

(b) the total amount received by the nominated person in relation to the sale of such electricity or rights relating thereto,

calculated (in each case) by such method and with reference to such periods of time as may be specified by regulations under this section, and the total cost referred to in paragraph (a) shall include such costs as are reasonably incurred by the nominated person in relation to the sale and purchase of such electricity and any advance or deferred payments.

(5A) Where the amount referred to in subsection (5)(b) is greater than the cost referred to in subsection (5)(a) the difference shall be paid by the nominated person to the prescribed person referred to in subsection (1)(b), such difference being calculated by such method as may be specified by regulations under this section.

(6) Regulations under this section may—

(a) impose requirements (whether as to the furnishing of records or other information or the affording of facilities for the examination and testing of meters or otherwise) on the nominated person and on persons authorised by a licence to supply, transmit, distribute or generate electricity;

(b) make provision as to the times at which payments falling to be made in pursuance of the regulations (whether payments by way of levy or payments to or by the nominated person) are to be so made;

(c) require the amount of any overpayment or underpayment which is made by or to any person (whether it arises because an estimate turns out to be wrong or

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<sup>(1)</sup> Section 33 has been amended by S.I. [1997/1185](#), the Fossil Fuel Levy Act [1998 \(c. 5\)](#) and S.I. [2000/2727](#).

otherwise) to be set off against or added to any subsequent liability or entitlement of that person; and

- (d) make provision for a debt recovery procedure to be followed by the nominated person, including provision for the consequences for the nominated person of that procedure not being followed.”.

(4) In subsection (7) the words “in respect of” shall be deleted.

(5) Subsection (8) shall be replaced with the following—

“(8) In this section—

“advance payment” means any payment made or expense incurred in relation to a particular generating station before electricity is first generated by that station:

“deferred payment” means any payment made or expense incurred in relation to a particular generating station after electricity ceases to be generated by that station;

“fossil fuel generating station” means a generating station fuelled by a fossil fuel;

“leviable electricity” means electricity which—

- (a) is generated by a fossil fuel generating station;
- (b) is generated by a generating station fuelled by nuclear fuel; or
- (c) is generated in pursuance of qualifying arrangements by a generating station fuelled or driven otherwise than by a fossil fuel or nuclear fuel;

“nominated person” has the meaning given in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000;

“public electricity supplier” means a person who, prior to 1st October 2001, was authorised by a licence to supply electricity under section 6(1)(c) of this Act (as that provision had effect immediately before the coming into force of section 30 of the Utilities Act 2000) and whose “authorised area” (as defined in section 6(9) of this Act as that provision had effect immediately before the coming into force of section 30 of the Utilities Act 2000) was situated wholly or mainly in England and Wales;

“qualifying month” in relation to an electricity supplier or a public electricity supplier, means a month beginning on or after the day appointed by the first order under section 32 above (as that section was originally enacted) which has effect in relation to that supplier and in relation to the nominated person the meaning shall be specified in regulations made under this section;

“supply successor company” has the meaning given in the Electricity from Non-Fossil Fuel Sources Saving Arrangements Order 2000;

and other expressions which are used in section 32 (as saved and modified by Order made under section 67 of the Utilities Act 2000 and extending to England and Wales) shall have the same meanings as in that section.”.

(6) Subsection (10) shall be replaced by the following—

“(10) Regulations under this section may include transitional measures making provision for payments of levy due to or from a public electricity supplier to be paid to or by the relevant supply successor company, where entitlement to such payments accrued under this section before 27th March 2001.”.