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STATUTORY INSTRUMENTS

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**2001 No. 7**

**The Climate Change Levy (Registration and Miscellaneous Provisions) Regulations 2001**

**PART III  
GROUPS**

**References to groups, etc**

**5.—(1)** This Part makes provision about two or more bodies corporate being treated as members of the same group for the purposes of the Act ('group treatment').

(2) For those purposes, or any regulation or direction made by or under the Act—

- (a) a body corporate is a member of a group at any time in relation to which it falls to be treated as such a member in accordance with this Part; and
- (b) the body corporate which is to be taken to be the representative member for a group at any time is the member of the group which in relation to that time is the representative member under this Part in the case of that group.

(3) A body corporate that is a member of a group shall, under Part V of the Act, be registered in the name of the representative member.

**Eligibility for group treatment**

**6.—(1)** Subject to the provisions of this Part, two or more bodies corporate are eligible to be treated as members of a group if—

- (a) at least one of them is resident in the United Kingdom,
- (b) they are all under the same control, and
- (c) each of them—
  - (i) is registered, or is required to notify or has notified the Commissioners under paragraph 55(1) of the Act (notification of registrability), and
  - (ii) is not a person to whom paragraph 57(1) of the Act applies (loss of registrability).

(2) For the purposes of this regulation, two or more bodies are under the same control if—

- (a) one of them controls each of the others;
- (b) one person (whether a body corporate or an individual) controls all of them; or
- (c) two or more individuals carrying on a business in partnership control all of them.

(3) For the purposes of this regulation, a body corporate shall be taken to control another body corporate only if—

- (a) it is empowered by statute to control that body's activities, or

(b) it is that body's holding company within the meaning of section 736 of the Companies Act 1985(1);

and an individual or individuals shall be taken to control a body corporate only if (were he or they a company) he or they would be that body corporate's holding company within the meaning of that section.

(4) A body corporate shall not be the representative member for a group at any time when it does not have an established place of business in the United Kingdom.

### **Liability for levy due from members of a group**

7.—(1) Group treatment shall not affect a body corporate being charged with levy in respect of a taxable supply whether to or from another member of the group or otherwise.

(2) However any levy with which a body corporate is charged in respect of a taxable supply treated as made while that body corporate is a member of a group shall be treated for the purposes of the Act as if it were the representative member for that group (instead of that body) which is charged with the levy.

(3) Accordingly the obligation on a member of a group to make a return pursuant to regulations made under paragraph 41 of the Act shall be discharged by the representative member making a return representing the aggregate of what would be the individual returns for the group members were it not for the group treatment.

(4) All bodies corporate who are members of a group when any levy becomes due from the representative member, together with any bodies corporate who become members of the group while any levy remains unpaid, shall be jointly and severally liable for any levy due from the representative member.

(5) References in this regulation to levy being or becoming due from the representative member include references to any amounts being or becoming recoverable as if they were levy due from that member.

### **Group treatment**

8.—(1) A body corporate shall be treated as a member of a group only—

(a) if a written application by that body corporate for such treatment is approved by the Commissioners, and

(b) from a date specified by the Commissioners for such treatment.

(2) A body corporate shall be the representative member for a group only—

(a) if a written application by that body corporate for this purpose is approved by the Commissioners, and

(b) from a date specified by the Commissioners for this purpose.

(3) The Commissioners need not approve an application by a body corporate to be a member of a group if they are not satisfied that every other proposed member agrees to the body corporate in question being a member of that proposed group.

(4) The Commissioners need not approve an application by a body corporate to be a representative member for a group if they are not satisfied that every proposed member agrees to the body corporate in question being the representative member for that proposed group.

(5) Any application under paragraph (1) or (2) must—

(a) be made in writing by the body corporate in question, and

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(1) 1985 c. 6; s.736 was substituted by s.144(1) of the Companies Act 1989 (c. 40).

- (b) include such information and declaration as the Commissioners require.
- (6) A body corporate that is a member of a group—
  - (a) shall no longer be a member of that group from the time it ceases to be eligible for group treatment; and
  - (b) shall notify the Commissioners in writing that it will cease or has ceased to be eligible for group treatment.
- (7) The notification required by paragraph (6)(b) shall be delivered to the Commissioners no later than the earlier of 30 days after the body corporate becomes aware that it will cease to be eligible or 30 days after the body corporate ceases to be eligible.
- (8) A body corporate that is the representative member for a group—
  - (a) shall no longer be the representative member for that group from the time it ceases to be eligible to be a representative member; and
  - (b) shall notify the Commissioners in writing that it will cease to be eligible to be a representative member.
- (9) The notification required by paragraph (8)(b) shall be delivered to the Commissioners no later than the earlier of 30 days after the body corporate becomes aware that it will cease to be eligible or 30 days after the body corporate ceases to be eligible.
- (10) The bodies corporate that are treated as members of a group shall take all reasonable steps to ensure that one of their number is the representative member for the group.
- (11) If it appears to the Commissioners that there is no representative member for a group they may specify one of the eligible bodies corporate in that group as being the representative member and shall then notify each of the members in writing accordingly.
- (12) Any body corporate specified by the Commissioners under paragraph (11), and remaining eligible, shall be taken to be the representative member of the group in question until a lawful substitution takes effect.
- (13) A specification made or notice served under paragraph (11) may have effect from a time earlier than when it is made or served.
- (14) The first of the 30 days referred to in paragraphs (7) and (9) is the first day after the one on which the body corporate becomes aware that it will cease to be eligible or the day after the one on which the body corporate ceases to be eligible, as the case may require.

**Modifications, etc**

- 9.—(1) Where—
  - (a) any bodies corporate are treated as members of a group, and
  - (b) a written application for membership from a further eligible body corporate, that includes such information and declaration as they may require, is approved by the Commissioners,then, from a time specified by the Commissioners, that further body corporate shall be included as a member of that group.
- (2) The Commissioners need not approve an application by a body corporate under paragraph (1) if they are not satisfied that every existing member agrees to the further body corporate being a member of the group.
- (3) The Commissioners need not specify a time under paragraph (1)(b) above that—
  - (a) is sooner than 30 days after the day they receive the relevant application, or
  - (b) is not the first day of an accounting period applying to the group by or under regulations made under paragraph 41 of the Act.

(4) Where any bodies corporate are treated as members of a group and a written application for the purpose, that includes such information and declaration as they may require, is made to the Commissioners, then, from a time specified by the Commissioners—

- (a) a body corporate shall be excluded from the bodies so treated;
- (b) one of those bodies corporate shall be substituted for another body corporate as the representative member; or
- (c) the bodies corporate shall no longer be treated as members of a group.

(5) The Commissioners need not approve an application under paragraph (4) if they are not satisfied that every existing member agrees to the application in question.

(6) The Commissioners need not specify a time under paragraph (4)(a), 4(b) or 4(c) that is

- (a) sooner than 30 days after the one on which they receive the relevant application, or
- (b) is not the first day of an accounting period applying to the group by or under regulations made under paragraph 41 of the Act.

(7) Where a body corporate ceases at any time to be treated as a member of a group, and—

- (a) there is only one other body corporate which was treated as a member of that group immediately before that time, or
- (b) none of the other bodies corporate which were so treated immediately before that time has an established place of business in the United Kingdom,

the other body corporate or, as the case may be, each of the other bodies corporate shall also cease as from that time to be treated as a member of the group.

### **Miscellaneous**

**10.**—(1) The Commissioners may refuse in full or in part an application under regulation 8(1), 8(2), 9(1) or 9(4) if it appears to them necessary to do so for the protection of the revenue.

(2) A person who has made an application or notification to the Commissioners under this Part must notify them immediately should any information contained in or provided in connection with that application or notification be or become inaccurate.

**11.**—(1) The Commissioners may, by written notice served on each member of a group, exclude a body from group treatment if it appears to them necessary to do so for the protection of the revenue or that the body in question is unable to comply with the requirements of group treatment.

(2) Such exclusion may take effect from a time earlier than when the written notice is served.