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STATUTORY INSTRUMENTS

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**2001 No. 838**

**The Climate Change Levy (General) Regulations 2001**

**PART II**

**ACCOUNTING, PAYMENT, RECORDS, TAX  
CREDITS, REPAYMENTS, SET-OFF, ETC.**

**Accounting periods**

3.—(1) A registrable person shall be subject to accounting periods.

(2) In the case of a registered person, these shall be each three month period ending on the dates notified to him at any time by the Commissioners for this purpose.

(3) In the case of any other registrable person, these shall be each three month period ending on 31st March, 30th June, 30th September or 31st December.

(4) However, in a particular case, the Commissioners may vary the start, end and length of any accounting period.

**Returns**

4.—(1) A registrable person is obliged to make a return to the Commissioners covering each of his accounting periods.

(2) The registrable person is obliged to make that return no later than the last working day of the month immediately following the end of the period to which it relates.

(3) In the case of an accounting period that does not end on the last day of a month, the registrable person is obliged to make that return no later than the due day directed by the Commissioners.

(4) The Commissioners may allow the registrable person extra time in which to make that return.

(5) The registrable person must make that return in a form that is prescribed by the Commissioners in a published notice (“prescribed form”).

(6) The registrable person must make that return by securing that it is delivered either to the address prescribed by the Commissioners in a published notice or to any other address that they may direct or allow.

**Content of returns**

5.—(1) The registrable person must declare in the return the CCL due from him for the relevant accounting period, taking into consideration—

(a) the CCL due on taxable supplies—

(i) the time of supply of which is in that accounting period, and

(ii) for which he is liable to account;

and,

(b) any authorised or required adjustment or any correction of errors (see regulations 14(2), 17(3), 27 and 28 and, in the Schedule, paragraphs 5(6)(b)(ii) and 8(1)(b)).

(2) The registrable person must provide in the return accurate information about every matter that the prescribed form requires.

(3) The registrable person must sign, date and declare on the document forming his return that the information provided in it is true and complete.

(4) The registrable person must comply with paragraphs (1), (2) and (3) in the manner prescribed by the Commissioners in a published notice.

### **Payment**

**6.—**(1) A registrable person must pay to the Commissioners the amount of CCL due from him for a given accounting period no later than the due date for the return for that period (see regulations 4(2), 4(3) and 4(4)).

(2) The registrable person must make that payment by securing that it is delivered either to the address or bank account prescribed for this purpose by the Commissioners in a published notice or to any other address or bank account that they may direct or allow.

(3) The Commissioners may allow a registrable person who has made arrangements with them for the payment of any amount of CCL due from him by means of direct debit an extra 7 days in which the payment may be made.

(4) The Commissioners shall only act pursuant to paragraph (3) in accordance with conditions they shall stipulate in a published notice.

### **Records**

**7.—**(1) A registrable person is obliged to keep a record to be known as the “climate change levy account” (periodic summary of CCL due).

(2) A registrable person who makes a claim under regulations 10 and 14(1) (tax credits in respect of bad debts) is obliged to keep a record to be known as the “climate change levy bad debts account”.

(3) A registrable person who makes a claim under regulations 11 and 14(1) (other tax credits) is obliged to keep a record to be known as the “climate change levy tax credits account”.

(4) A record within this regulation must be kept in the manner stipulated in a published notice.

**8.** A registrable person is obliged to keep the following records—

- (a) his business and accounting records;
- (b) a copy of each CCL accounting document issued by him;
- (c) each supplier certificate and supporting analysis document received, issued or prepared by or for him to evidence that a taxable supply (or part of such a supply) by or to him was—
  - (i) excluded or exempt from CCL, or
  - (ii) a half-rate or reduced-rate supply;
- (d) documentary evidence (including any relevant invoice) detailing each taxable supply made by him;
- (e) documentary evidence (including any relevant invoice) received by him in connection with his receipt of any taxable commodity;
- (f) documentary evidence regarding the adjustment of an entry concerning the amount of CCL charged for which he is liable to account;

- (g) documentary evidence regarding any claim by him for a tax credit under regulation 10 (bad debts), regulation 11 (other tax credits) or the Schedule (tax credit for recipient) and, in each case, regarding any relevant surrounding circumstances;
- (h) the documents relevant to any special utility scheme binding him;
- (i) a record of the information he relies on in making each return pursuant to regulation 5;
- (j) any other record that may be stipulated in a published notice.

**9.—(1)** A registrable person is required to preserve any record required by regulation 7 or 8 for a period of at least six years.

(2) For the purposes of paragraph (1), a record within regulation 7 need only be preserved in relation to events taking place not more than six years earlier.

(3) For the purposes of paragraph (1), a record within regulation 8(c) must be preserved by the registrable person for a period of six years from the time of supply of the final supply to which it relates.

(4) For the purposes of paragraph (1), a record within regulation 8(d) or 8(e) must be preserved by the registrable person for a period of six years from the relevant time of supply or, if there is no such time, from the time of delivery.

(5) The Commissioners may direct that any such record need only be preserved for such period as they specify shorter than six years.

#### **Bad debts: entitlement to tax credit**

**10.—(1)** Paragraph (3) applies where—

- (a) a person has supplied a taxable commodity and has accounted for and paid the CCL chargeable on the supply,
- (b) that person and the recipient of the supply are not connected or are not the same person,
- (c) that person has issued to the recipient a climate change levy accounting document (or, if the issue of such a document is not required by or under the Act, other invoice) relating to the supply showing the CCL chargeable,
- (d) the whole or any part of the price for the supply has been written off in his accounts as a bad debt, and
- (e) the period of 6 months referred to in paragraph (8) has elapsed.

(2) Any question whether a person is connected with another for the purposes of paragraph (1) shall be determined in accordance with section 839 of the Income and Corporation Taxes Act 1988(1).

(3) The person shall be entitled to a tax credit in respect of the amount of CCL chargeable calculated by reference to the outstanding amount (subject to the provisions of this Part including those provisions relating to the making of a relevant claim to the Commissioners).

(4) In this regulation and regulation 16—

“claim” refers to a claim in accordance with regulation 14 or 15, and “claimant” shall be construed accordingly;

“the outstanding amount” refers to—

- (a) if at the time of the claim no part of the price written off in the claimant’s accounts as a bad debt has been received, an amount equal to the amount of the price so written off;

(b) if at that time any part of the price so written off has been received, an amount by which that part is exceeded by the amount of the price written off.

(5) In paragraph (4), “received” refers to receipt either by the claimant or by a person to whom has been assigned a right to receive the whole or any part of the price written off.

(6) Accordingly, the tax credit arising under this regulation shall be of an amount equal to such proportion of the CCL charged on the supply as the outstanding amount forms of the total price.

(7) For the purposes of this regulation, where the whole or any part of the price for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the price shall be so much of the amount made up of—

- (a) the price excluding the CCL chargeable, and
- (b) the CCL charged on the supply,

as is attributable to the non-monetary consideration in question.

(8) Neither the whole nor any part of the price for a supply shall be taken to have been written off in accounts as a bad debt until a period of not less than six months has elapsed from the time when such whole or part became due and payable to, or to the order of, the person who made the relevant supply.

(9) Subject to paragraph (8), the whole or any part of the price for a relevant supply shall be taken to have been written off as a bad debt when an entry is made in relation to that supply in the claimant’s climate change levy bad debts account (see regulation 7(2)).

(10) Where the claimant owes an amount of money to the recipient of the relevant supply which can be set off, the price written off in the accounts shall be reduced by the amount so owed.

(11) Where the claimant holds in relation to the recipient of the relevant supply an enforceable security, the consideration written off in the account of the claimant shall be reduced by the value of that security.

(12) In paragraphs (8) to (11), “relevant supply” refers to any taxable supply on which a claim is based.

(13) In paragraph (11), “security” refers to—

- (a) in England, Wales or Northern Ireland, any mortgage, charge, lien or other security;
- (b) in Scotland, any security (whether heritable or moveable), any floating charge and right of lien or preference and right of retention (other than a right of compensation or set-off).

### **Other tax credits: entitlement**

**11.—**(1) The supplier in each of the following cases is entitled to a tax credit in respect of any relevant amount of CCL charged on the supply in question (subject to the provisions of this Part including those provisions relating to the making of a relevant claim to the Commissioners)—

- (a) after a taxable supply has been made, there is such a change in circumstances or any person’s intentions that, if the changed circumstances or intentions had existed at the time of supply, the supply would not have been a taxable supply;
- (b) after a supply of a taxable commodity is made on the basis that it is a taxable supply, it is determined that the supply was not (to any extent) a taxable supply;
- (c) after a taxable supply has been made on the basis that it was neither a half-rate supply nor a reduced-rate supply, it is determined that the supply was (to any extent) a half-rate or reduced-rate supply;
- (d) CCL is accounted for on a half-rate supply as if the supply were neither a half-rate supply nor a reduced-rate supply;

- (e) after a charge to CCL has arisen on a supply of a taxable commodity (“the original commodity”) to a person who uses the commodity supplied in producing taxable commodities primarily for his own consumption, that person makes supplies of any of the commodities in whose production he has used the original commodity;
  - (f) the making of a taxable supply gives rise to a double charge to CCL within the meaning of paragraph 21 of the Act.
- (2) In paragraph (1), “relevant amount of CCL” refers to—
- (a) in relation to a case described by sub-paragraph (a), (b), (c), (d) or (e) of paragraph (1), the difference between the amount of CCL that ought to have been charged by or under the Act at the time of supply and the amount of CCL that was actually accounted for and paid by the supplier; and
  - (b) in relation to a case described by sub-paragraph (f) of paragraph (1), the amount of CCL actually charged and paid on the later supply having regard to the relative times of supply.

### **Tax credits: general**

**12.**—(1) The provisions of this Part have effect subject to the requirements of Part III and the Schedule (certification scheme for excluded, exempt, half-rate and reduced-rate supplies).

(2) Accordingly, no tax credit shall arise by virtue of regulation 11 where the circumstances are such that provision is made by the Schedule for a tax credit, for the benefit of the recipient, relating to the amount in question.

**13.** A tax credit shall only arise under regulation 10 or 11 if a claim is made by the supplier acting in accordance with regulation 14 or 15, as the case requires.

**14.**—(1) Subject to paragraph (4), the supplier shall claim any such tax credit by bringing it into account when he is accounting for CCL due from him for any accounting period.

(2) Accordingly—

- (a) the requirements of regulation 5 (content of returns), regulation 6 (payment of CCL) and regulation 7 (CCL accounts) apply subject to paragraph (1); but
- (b) paragraph (1) applies subject to regulation 27 (corrections) and regulation 28 (corrections not exceeding £2,000).

(3) A claim subject to paragraphs (1) and (2) shall be regarded as a claim for repayment of CCL for the purposes of paragraph 64 of the Act (supplemental provisions about repayments, etc.) (and see paragraph (5)).

(4) Where the total tax credit claimed by a supplier exceeds the total of the CCL due from him for the accounting period in question, the Commissioners shall repay to him an amount equal to the excess (but see regulations 29 and 30).

(5) Given the provision made by paragraph 62(4) of the Act, this regulation has effect subject to paragraph 64 of the Act (application of supplemental provisions about repayments: three year time limit, unjust enrichment, etc.).

**15.**—(1) Where the Commissioners have cancelled the registration of a person in accordance with Part V of the Act, and he is not a registrable person, the Commissioners shall repay to him the amount of the tax credit if they are satisfied that he has made a proper claim to them in writing for this purpose.

(2) A claim under paragraph (1) may be combined with a claim under regulation 14(1) if appropriate.

(3) A person making a claim under paragraph (1) must furnish to the Commissioners full particulars in relation to the tax credit claimed including (but not restricted to)—

- (a) the return in which the relevant CCL was accounted for;
- (b) the amount of the CCL in question and the date and manner of its payment to the Commissioners;
- (c) the events by virtue of which the bad debt or entitlement to a tax credit arose; and
- (d) any supporting documentary or other evidence.

(4) Where the Commissioners are satisfied that a person who has made a claim in accordance with paragraphs (1) and (3) is entitled to a tax credit and that he has not previously had the benefit of that credit, they shall repay to him an amount equal to the credit (but see regulations 29 and 30).

(5) The Commissioners shall not be liable to make any repayment under this regulation unless and until the person has made all the returns which he was required to make (and see regulation 29 and 30).

(6) Given the provision made by paragraph 62(4) of the Act, this regulation has effect subject to paragraph 64 of the Act (application of supplemental provisions about repayments: three year time limit, unjust enrichment, etc.).

#### **Bad debts: supplementary provisions**

**16.—**(1) Where—

- (a) a claimant in relation to regulation 10 has made a taxable supply,
- (b) there exist one or more other matters in respect of which the claimant is entitled to a debt owed by the recipient (whether or not they involve a taxable supply), and
- (c) a payment has been received by the claimant from or on behalf of the recipient,

the payment shall be attributed to the taxable supply and the other matters in accordance with the rules set out in paragraphs (3) and (5).

(2) The debts arising in respect of the taxable supply and the other matters are collectively referred to as debts in paragraphs (3) to (5).

(3) The payment shall be attributed to the debt that arose earliest and, if not wholly attributable to that debt, to the other debts in the order of the dates on which they arose.

(4) Attribution under paragraph (3) shall not be made to the extent that the payment was allocated to a debt by the recipient (customer) at the time of payment.

(5) Where—

- (a) the earliest debt and the other debts to which the whole of the payment could be attributed arose on the same day, or
- (b) the debts to which the balance of the payment could be attributed in accordance with paragraph (3) arose on the same day,

the payment shall be attributed to each remaining debt according to the proportion that the debt in question contributes to the total remaining debt.

**17.—**(1) Where a supplier—

- (a) has received the benefit from a tax credit provided for by regulation 10 (bad debts), and
- (b) a payment—
  - (i) for the taxable supply in question is subsequently received by him (or by a person to whom has been assigned a right to receive the whole or any part of the price written off), or

- (ii) is attributed to that taxable supply by virtue of regulation 16, that tax credit shall be withdrawn with effect from when sub-paragraph (b)(i) or (b)(ii) is satisfied, as the case requires.
- (2) Where a supplier—
- (a) has received the benefit from a tax credit provided for by regulation 11 (tax credits other than bad debts), and
  - (b) it subsequently transpires that any relevant requirement of this Part is not complied with,
- that tax credit shall be withdrawn with effect from when he received that benefit.
- (3) Where a tax credit is withdrawn under this regulation—
- (a) the requirements of regulation 5 (content of returns), regulation 6 (payment of CCL) and regulation 7 (CCL accounts) apply subject to this regulation; but
  - (b) this regulation applies subject to regulation 27 (corrections) and regulation 28 (corrections not exceeding £2,000).
- (4) Paragraph (3) applies subject to paragraph 67 of the Act (assessment for excessive repayment).

**Form and manner of claim for repayment of overpaid CCL if no person entitled to tax credit**

**18.** A claim under paragraph 63 of the Act (claim for repayment of CCL which was not CCL due if no entitlement to tax credit) shall be made in writing to the Commissioners and shall, by reference to such documentary evidence as is in the possession of the claimant, state the amount of the claim and the method by which that amount was calculated.

**Tax credits and other repayments: unjust enrichment—reimbursement arrangements to be disregarded**

- 19.** In this regulation and in regulations 20 to 25—
- “claim” refers to a claim made under regulation 14 or 15 or under paragraph 63 of the Act (claim for repayment of CCL which was not CCL due if no person entitled to tax credit) and “claimed” and “claimant” must be construed accordingly;
- “reimbursement arrangements” refers to any arrangements for the purposes of the claim which—
- (a) are made by the claimant for the purpose of securing that he is not unjustly enriched by the repayment of any amount in pursuance of the claim; and
  - (b) provide for the reimbursement of persons (recipients) who have for practical purposes borne the whole or any part of the cost of the original payment of that amount to the Commissioners;
- “relevant amount” refers to that part (which may be the whole) of the amount of the claim which the claimant has reimbursed or intends to reimburse to other persons (recipients).
- 20.** For the purposes of paragraph 64(2) of the Act (defence by the Commissioners that repayment by them of an amount claimed would unjustly enrich the claimant) reimbursement arrangements made by a claimant shall be disregarded except where they—
- (a) include the provisions described in regulation 21, and
  - (b) are supported by the undertakings described in regulation 25.
- 21.** The provisions referred to in regulation 20(a) are that—
- (a) reimbursement for which the arrangements provide will be completed by no later than 90 days after the repayment to which it relates;

- (b) no deduction will be made from the relevant amount by way of fee or charge (however expressed or effected);
- (c) reimbursement will be made only in cash or by cheque;
- (d) any part of the relevant amount that is not reimbursed by the time mentioned in paragraph (a) will be repaid by the claimant to the Commissioners;
- (e) any interest paid by the Commissioners on any relevant amount repaid by them will also be treated by the claimant in the same way as the relevant amount falls to be treated under paragraphs (a) and (b); and
- (f) the records described in regulation 23 will be kept by the claimant and produced by him to the Commissioners in accordance with regulation 24.

**22.** The claimant shall, without prior demand, make any repayment to the Commissioners that he is required to make by virtue of regulation 21(d) or 21(e) within 14 days of the expiry of the period of 90 days referred to in regulation 21(a).

**23.** The claimant shall keep records of the following matters—

- (a) the names and addresses of those persons (recipients) whom he has reimbursed or whom he intends to reimburse;
- (b) the total amount reimbursed to each such person (recipient);
- (c) the amount of interest included in each total amount reimbursed to each person (recipient);
- (d) the date that each reimbursement is made.

**24.—(1)** Where a claimant is given notice in accordance with paragraph (2) he shall, in accordance with such notice, produce to the Commissioners the records that he is required to keep pursuant to regulation 23.

(2) A notice given for the purposes of paragraph (1) shall—

- (a) be in writing;
- (b) state the date on which and the place and time at which the records are to be produced; and
- (c) be signed and dated by the Commissioners.

(3) Such a notice may be given before or after, or before and after, the Commissioners have paid the relevant amount to the claimant.

**25.—(1)** The undertakings referred to in regulation 20(b) shall be given to the Commissioners by the claimant no later than the time at which he makes the claim for which the reimbursement arrangements have been made.

(2) The undertakings shall be in writing and shall be signed and dated by the claimant.

(3) The undertakings shall be to the effect that—

- (a) at the date of the undertakings he is able to identify the names and addresses of those persons (recipients) whom he has reimbursed or whom he intends to reimburse;
- (b) he will apply the whole of the relevant amount repaid to him (without any deduction by way of fee, charge or otherwise) to the reimbursement in cash or by cheque of such persons (recipients) no later than 90 days after he receives that amount (unless he has properly reimbursed them already);
- (c) he will apply any interest paid to him on the relevant amount repaid to him wholly to the reimbursement of such persons (recipients) no later than 90 days after he receives that interest;



- (d) he will repay to the Commissioners without demand the whole or such part of the relevant amount repaid to him or of any interest paid to him as he fails to apply in accordance with the undertakings mentioned in sub-paragraph (b) or (c);
- (e) he will keep the records described in regulation 23; and
- (f) he will comply with any notice given to him in accordance with regulation 24 concerning the production of such records.

### **Corrections to CCL returns**

#### **26. A registrable person—**

- (a) shall only be taken as providing full information in the prescribed or specified form and manner for the purposes of paragraph 100(3) of the Act (disclosure about inaccurate CCL return),
- (b) with respect to any inaccuracy to which paragraph 100(1)(a) of the Act applies (civil penalty for misdeclaration or neglect in relation to inaccurate return),

if he delivers that information in writing to the Commissioners, or acts in accordance with regulation 28, at a time to which paragraph 100(3)(a) of the Act applies (no reason to believe enquiries being made into CCL affairs).

**27.—**(1) A registrable person shall correct any error made by him in accounting for CCL or in connection with his CCL account and, as appropriate, make any adjustment required by regulation (5)(1)(b) (adjustments to CCL returns).

(2) That correction or adjustment shall be made within such time and by means of such payment, financial adjustment, entry in accounts or other method as the Commissioners may require.

(3) This regulation has effect subject to, as the case requires—

- (a) the time limit applying to regulations 14(1), 17(1) and 17(2) (tax credits) (see regulations 14(5) and 17(4)—amounts paid more than three years before claim made and assessment subject to time limit in paragraph 69 of Act);
- (b) the time limit applying to paragraph 8(1) of the Schedule (recipient’s tax credit) (see paragraph 8(5) of the Schedule—amounts paid more than three years before claim made);
- (c) a time limit of three years after the end of the accounting period in relation to which the error was made or the adjustment became required; or
- (d) any time limit for an assessment in relation to the error in question (see paragraphs 78(1), 78(2)(d), 79 and 80 of the Act).

**28.—**(1) This regulation applies by way of an exception to regulation 27 but only in relation to errors.

(2) Where a registrable person discovers that a return he has previously made is based on an under-calculation he must correct the error by adding an appropriate amount to the CCL due for the accounting period in which the discovery is made under regulation 5(1)(b) (CCL due).

(3) Where a registrable person discovers that a return he has previously made is based on an over-calculation he must correct the error by deducting an appropriate amount from the CCL due for the accounting period in which the discovery is made under regulation 5(1)(b) (CCL due).

(4) For the purposes of paragraphs (2) and (3)—

“under-calculation” refers to the aggregate, which must not exceed £2,000, of—

- (a) the CCL due on taxable supplies—

- (i) the times of supply of which were in the accounting period to which the previous return related, and
  - (ii) for which the registrable person in question was liable to account;
  - (b) but which was not properly taken into consideration for that period (see regulation 5(1)) (“understated CCL”);
- “over-calculation” refers to the aggregate, which must not exceed £2,000, of—
- (a) amounts that were wrongly taken as CCL due on taxable supplies—
    - (i) the times of supply of which were in the accounting period to which the previous return related, and
    - (ii) for which the registrable person in question was liable to account;
  - (b) and which were wrongly taken into consideration for that period (see regulation 5(1)) (“overstated CCL”).
- (5) For the purposes of paragraph (4)—
- (a) in reckoning the aggregate constituting the under-calculation no allowance shall be made for any overstated CCL; and
  - (b) in reckoning the aggregate constituting the over-calculation no allowance shall be made for any understated CCL.
- (6) A registrable person making a correction under paragraph (2) or (3) shall make proper allowance for that correction for the purposes of complying with regulation 7(1) (CCL account) or 7(3) (tax credits account), as appropriate.
- (7) Where an error in a return has to any extent been corrected under this regulation—
- (a) that return shall be regarded as having been corrected to that extent, and
  - (b) the registrable person shall to that extent be taken to have provided full information with respect to the inaccuracy in the prescribed form and manner for the purposes of paragraph 100(3) of the Act (disclosure about inaccurate CCL return).
- (8) A person shall not correct an error in a return (where that error is the result of an under-calculation or over-calculation) except in accordance with this regulation.
- (9) This regulation has effect subject to, as the case requires—
- (a) any requirement of the Commissioners under regulation 27(2), and
  - (b) any applicable time limit specified in regulation 27(3).

### **Set-off**

- 29.**—(1) This regulation applies where—
- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of CCL; and
  - (b) the Commissioners are under a duty to pay to that person at the same time an amount or amounts in respect of any CCL (or other tax or duty) under their care and management.
- (2) Where the total of the amount or amounts mentioned in paragraph (1)(a) exceeds the total of the amount or amounts mentioned in paragraph (1)(b), the latter shall be set-off against the former.
- (3) Where the total of the amount or amounts mentioned in paragraph (1)(b) exceeds the total of the amount or amounts mentioned in paragraph (1)(a), the Commissioners may set off the latter in paying the former.

(4) Where the total of the amount or amounts mentioned in paragraph (1)(a) is the same as the total of the amount or amounts mentioned in paragraph (1)(b), no payment need be made in respect of either.

(5) Where this regulation applies and an amount has been set off in accordance with any of paragraphs (2) to (4), the duty of both the person in question and the Commissioners to pay the amount concerned shall be treated as having been discharged accordingly.

**30.**—(1) This regulation applies where—

- (a) a person is under a duty to pay to the Commissioners at any time an amount or amounts in respect of any tax or duty (other than CCL) under their care and management; and
- (b) the Commissioners are under a duty, at the same time, to make a payment or repayment to that person of an amount or amounts of or in respect of CCL.

(2) Where the total of the amount or amounts mentioned in paragraph (1)(a) exceeds the total of the amount or amounts mentioned in paragraph (1)(b), the latter shall be set-off against the former.

(3) Where the total of the amount or amounts mentioned in paragraph (1)(b) exceeds the total of the amount or amounts mentioned in paragraph (1)(a), the Commissioners may set off the latter in paying the former.

(4) Where the total of the amount or amounts mentioned in paragraph (1)(a) is the same as the total of the amount or amounts mentioned in paragraph (1)(b), no payment need be made in respect of either.

(5) Where this regulation applies and an amount has been set off in accordance with any of paragraphs (2) to (4), the duty of both the person in question and the Commissioners to pay the amount concerned shall be treated as having been discharged accordingly.

**31.**—(1) Regulation 29 or 30 shall not require any such amount as is mentioned in paragraph (1)(b) of either regulation (“the credit”) to be set against any item mentioned in paragraph (1)(a) of either regulation (“the debit”) where—

- (a) an insolvency procedure has been applied to the person entitled to the credit;
- (b) the credit became due after that procedure was applied; and
- (c) the liability to pay the debt either arose before that procedure was so applied or (having arisen afterwards) relates to, or to matters occurring in the course of, the carrying on of any business relevant for CCL purposes at times before the procedure was so applied.

(2) An insolvency procedure is applied to a person for the purposes of this regulation in the circumstances described by paragraphs 75(2) to 75(5) of the Act (insolvency procedures for purposes of this regulation).

**32.** A reference in regulation 29 or 30 to an amount in respect of tax or duty includes a reference to an amount of any related penalty, surcharge or interest that may be recovered as if it was an amount of tax or duty.

### **Special rules for excluded, exempt, half-rate and reduced-rate supplies**

**33.** The provisions of this Part have effect subject to Part III of and the Schedule to these Regulations (accounting and payment in the case of excluded, exempt, half-rate and reduced-rate supplies).