
STATUTORY INSTRUMENTS

2001 No. 838

The Climate Change Levy (General) Regulations 2001

PART III

EXCLUDED, EXEMPT, HALF-RATE AND REDUCED-RATE SUPPLIES

Supplier certificates: basic rules

34.—(1) Any exclusion or exemption provided for by, under or by virtue of—

- (a) paragraph 9(2)(f) (community heating arrangements), 11 (onward supplies and exports), 12 (transport), 13 (commodity producers), 14 (electricity producers), 15 (combined heat and power stations) or 18 (non fuel use) of the Act, or
- (b) regulation 41 (or any other relevant regulation made under paragraph 21 of the Act to avoid a double charge to CCL(1)),

shall only be given effect if and to the extent that, before the time of supply, the recipient has delivered to the supplier a certificate that accords with paragraph (2).

(2) Any such certificate shall—

- (a) represent that the supply (or a quantified part of the supply) meets the requirements for each such exclusion or exemption,
- (b) comply, as necessary, with regulations 37(2), 37(3), 37(4) and 38(2), and
- (c) be supported, if necessary, in accordance with paragraph (3).

(3) Where the certificate represents that a quantified part of the supply meets the requirements for an exclusion or exemption referred to in paragraph (1), the recipient must support that certificate with an analysis document demonstrating that the part is calculated in a manner consistent with regulation 38 and the Schedule.

35.—(1) A taxable supply is to be treated as being a half-rate supply only if and to the extent that, before the time of supply, the recipient has delivered to the supplier a certificate that accords with paragraph (2).

(2) Any such certificate shall—

- (a) represent that the supply (or a quantified part of the supply) meets the requirements for a half-rate supply in paragraph 43 of the Act (horticultural producers),
- (b) comply, as necessary, with regulations 37(2), 37(3), 37(4) and 38(2), and
- (c) be supported, if necessary, in accordance with paragraph (3).

(3) Where the certificate represents that a quantified part of the supply meets the requirements for a half-rate supply, the recipient must support that certificate with an analysis document demonstrating that the part is calculated in a manner consistent with regulation 38 and the Schedule.

36.—(1) For the purposes of regulation 45(2) (certain supplies to a facility covered by climate change agreement), a taxable commodity shall be regarded for CCL purposes as supplied to a facility that is certified as being covered by a climate change agreement only if and to the extent that, before the time of supply, the recipient has delivered to the supplier a certificate that accords with paragraph (2).

(2) Any such certificate shall—

- (a) represent that the supply (or a quantified part of the supply) meets the requirements for a reduced-rate supply in paragraph 44 of the Act (facilities covered by climate change agreements),
- (b) comply, as necessary, with regulation 37(2), 37(3), 37(4) and 38(2), and
- (c) be supported, if necessary, in accordance with paragraph (3).

(3) Where the certificate represents that a quantified part of the supply meets the requirements for a reduced-rate supply for the purposes of regulation 45(2), the recipient must support that certificate with an analysis document demonstrating that the part is calculated in a manner consistent with regulation 38 and the Schedule.

37.—(1) A certificate delivered under regulation 34, 35 or 36 (a “supplier certificate”) only has effect in relation to a supply the time of supply of which is on or after the certificate’s implementation date.

(2) A supplier certificate and an analysis document shall—

- (a) be in a form prescribed by the Commissioners for this purpose in a published notice, and
- (b) in the case of the supplier certificate, be signed and dated by a person duly authorised for this purpose by the recipient.

(3) Where regulation 34, 35 or 36 applies to part of a supply and at least one other of them applies to another part of that supply, any supplier certificate the recipient delivers under one of those regulations shall be combined by him with a supplier certificate under any other applicable regulation such that the resulting composite certificate satisfies paragraph (2) of every applicable regulation.

(4) A recipient shall not combine—

- (a) a supplier certificate relating to the supply of one taxable commodity with a supplier certificate relating to the supply of any other such commodity;
- (b) a supplier certificate delivered to one supplier with a supplier certificate delivered to another supplier;
- (c) a supplier certificate relating to a reference number the supplier uses for him with a supplier certificate relating to another reference number the supplier uses for him; or
- (d) supplier certificates combined contrary to sub-paragraph (a) with supplier certificates combined contrary to sub-paragraph (b).

(5) A recipient who delivers a supplier certificate to a supplier must deliver a copy to the Commissioners within 30 days of doing so (together with any supporting analysis document).

(6) In this regulation, “implementation date” refers to the earlier of—

- (a) the fifth working day after the one on which the certificate is delivered to the supplier at any address the supplier designates for this purpose, and
- (b) the day on which (or any day after which) the certificate is so delivered if, on that day, the supplier first applies the information contained in that certificate to the relevant supplies he makes to the recipient.

(7) To the extent that a person does anything before 1st April 2001 in purported compliance or conformity with or purported pursuit of regulation 34, 35, 36, 38, 43 or this regulation it shall, to that extent, be regarded as having been done on 1st April 2001.

Supplier certificates: accounting for and payment of CCL

38.—(1) The Schedule to these Regulations has effect for the purpose of—

- (a) supplementing the provisions of regulations 34 to 37 (which, accordingly, have effect subject to that Schedule), and
- (b) determining the manner in which a person who is required to account for CCL does so in the case of a supply of a quantity of a taxable commodity—
 - (i) to which regulation 34, 35 or 36 applies, or
 - (ii) that otherwise includes a reduced-rate part.

(2) A recipient shall include in a supplier certificate the percentage of the supply or supplies on which CCL is not due calculated in accordance with that Schedule (recipient's relief percentage).

(3) This Part and the Schedule must be read as one.

Special cases

39.—(1) Regulations 34 to 38 apply, as appropriate, even if the supplier and the recipient are the same person (deemed self-supplies and the case provided for by paragraph (2)).

(2) A recipient who is liable to account for the CCL charged on a taxable supply shall be regarded as the same person as the supplier for the purposes of this Part and the Schedule (see paragraph 40(2) of the Act—taxable supplies made by persons who are neither resident in the United Kingdom nor utilities).

Suppliers to producers of commodities

40.—(1) An exemption provided for by paragraph 13 or 14(1) of the Act (supplies to producers of commodities other than electricity and certain supplies to electricity producers) has effect subject to paragraph (2).

(2) The supply of the taxable commodity in question shall be a taxable supply (and not an exempt supply) to the extent that it is to be used by the recipient for the purposes of—

- (a) headquarters administration facilities;
- (b) telephone call centres;
- (c) dedicated visitor centres;
- (d) any commercial matters (including power for computers and ancillary equipment, and legal, contractual or taxation matters);
- (e) road tanker deliveries otherwise than at the production site.

(3) This regulation has effect without prejudice to the generality of paragraph 13 or 14(1) of the Act.

Non-registrable electricity producers

41.—(1) Paragraph (2) applies if and to the extent that a non-registrable electricity producer produces electricity and makes a supply of it to an electricity utility (or a person treated as such for CCL purposes).

(2) If and to the extent that this paragraph applies, that supply of electricity shall be treated for the purposes of paragraph 14(1) of the Act as a use of that electricity in relation to which the exemption provided for by that paragraph is retained.

42.—(1) A supply of a taxable commodity to a non-registrable electricity producer shall be treated as being a half-rate supply to the extent that he both—

- (a) uses that commodity to produce electricity, and
- (b) uses that electricity in making a supply meeting the description of a half-rate supply in paragraph 43(1) of the Act (horticultural producers).

(2) Paragraph (1) has effect subject to regulations 35, 37, 38 and 39.

43.—(1) A non-registrable electricity producer who delivers a supplier certificate that is required to be supported by an analysis document shall annex to that analysis document details of—

- (a) the quantity of electricity that is attributable to self supplies,
- (b) the individual quantities of electricity supplied by him to other persons, and
- (c) the identity and address of each other person to whom he supplies electricity.

(2) This regulation has effect by way of supplement to the requirements of regulations 34(3), 35(3) and 36(3) and, to that extent, is subject to regulation 38.

(3) In this regulation—

“electricity” refers to electricity to which the supplier certificate in question relates;

“self supplies” refers to any supplies of electricity that are deemed by paragraph 23(3) of the Act (use of commodities by producers) to be made to himself by the relevant non-registrable electricity producer (own use).

(4) In these Regulations and the Schedule a reference to an analysis document includes a reference to any annexe required by paragraph (1).

Facilities covered by climate change agreements

44.—(1) For the purposes of paragraph 44 of the Act (reduced-rate for supplies covered by climate change agreement), a taxable commodity shall not be regarded as being supplied otherwise than to a facility covered by a climate change agreement solely because it is delivered and stored elsewhere prior to being burned within that facility.

(2) Paragraph (1) does not apply in a case where the taxable commodity in question is electricity or gas.

45.—(1) This regulation applies where a taxable commodity is supplied to a non-registrable electricity producer otherwise than at a facility that is certified as being covered by a climate change agreement in accordance with paragraph 44(1) of the Act.

(2) That taxable commodity shall be regarded as supplied to a facility certified as being covered by a climate change agreement to the extent that it is used to produce electricity that is in fact supplied to such a facility by that non-registrable electricity producer.

(3) This regulation has effect subject to regulations 36, 37, 38 and 39.