
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 2006, introduce a relief from excise duty for rebated heavy oils used to generate electricity in a generating station or combined heat and power station. Relief is allowed on the written application of a qualified claimant, as defined in regulation 2.

Regulation 3 sets out the scope of the relief. It provides that electricity generated by auto-generators and exempt unlicensed electricity suppliers (as defined in regulation 2) will only be eligible for relief if the electricity has been used to make supplies of a description falling within regulation 41 of the Climate Change Levy (General) Regulations 2001⁽¹⁾(supplies by non-registrable electricity producer to an electricity utility).

Regulation 4 provides that the relief shall be in the form of a repayment.

Part 3 of the Regulations applies to qualifying oil used to produce electricity in a generating station. Regulation 6 provides the amount of the relief and regulations 7 and 8 describe how applications for relief are to be made.

Part 4 of the Regulations applies to qualifying oil used to produce electricity in a fully or partly exempt combined heat and power station and provides that the relief is limited to the amount of oil burnt in a good quality CHP. Regulation 10 provides the amount of the relief and regulation 11 provides how applications for relief are to be made. The amount of any relief will depend on the ratio between a station's efficiency percentage and its threshold efficiency percentage. Regulation 10(3)(a) provides that a station's threshold efficiency percentage shall be 20%. Regulation 10(3)(b) provides that a station's efficiency percentage in relation to a given annual operation is to be determined in accordance with methodology described in detail in the Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000 originally published by the Department for the Environment, Transport and the Regions⁽²⁾.

Part 5 of the Regulations provides the conditions under which the relief is granted. Regulation 12 requires the repayment of any relief where there is contravention of, or failure to comply with, any condition. Regulation 13 imposes general conditions and regulation 14 provides for the imposition of further conditions on qualified claimants by the Commissioners.

This instrument gives effect to Articles 14(1)(a) and 15(1)(c) of Council Directive 2003/96/EC⁽³⁾ (of 27th October 2003 restructuring the Community framework for the taxation of energy products and electricity) in respect of energy products used to produce electricity. A transposition note for the directive is available at www.hmrc.gov.uk.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business, charities or voluntary bodies is available at www.hmrc.gov.uk.

(1) S.I.2001/838, amended by S.I. 2003/604; there are other amending instruments but none is relevant.

(2) The Standard and Guidance Notes are available at <http://www.chpqa.com> or free of charge from the Action Energy Helpline (0800 585 794) or the CHPQA Administrator (0870 190 6196).

(3) OJ No L.283, 31.10.03, p.51.