

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE AGREEMENTS (ELIGIBLE FACILITIES)
(AMENDMENT) REGULATIONS 2006

2006 No. 1931

- 1** This explanatory memorandum is prepared by the Department for Environment Food and Rural Affairs and is laid before the House of Commons by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

This instrument amends the Climate Change Agreements (Eligible Facilities) Regulations 2006 (SI 2006/60). In particular, it replaces the Schedule to S.I. 2006/60 with a new one. The effect of these amendments is to enable additional energy-intensive facilities to be identified in a Climate Change Agreement (CCA) with the Secretary of State for the Environment Food and Rural Affairs. Facilities that are certified by the Secretary of State as being covered by a CCA are entitled to claim the reduced rate of Climate Change Levy (CCL)¹.

3. Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None

4. Legislative background

- 4.1 The Finance Act 2000 (c.17) Schedule 6 has, since 1 April 2001, charged CCL on supplies of electricity, gas and solid fuels for business use.

- 4.2 Paragraphs 42 and 44 to 51 of that Schedule enable supplies to an energy-intensive facility to carry only 20% of the CCL rates. The facility must be identified in a CCA with the Secretary of State for the Environment, Food and Rural Affairs. CCAs set targets for improvements in energy efficiency or emissions, and performance is monitored regularly. CCAs therefore assist energy-intensive businesses exposed to international competition, but also oblige them to improve their energy efficiency or reduce their emissions in return for the reduced CCL rates.

- 4.3 Under paragraphs 50 and 51 of that Schedule, CCA eligibility is built from the idea of Part A installations as defined in Schedule 1 Part 3 to the PPC Regulations. Not all energy intensive premises are covered by that definition which has lead to some distortions and inequalities. In 2004, the UK therefore

¹ An 80% reduced rate applies to facilities that are certified by the Secretary of State as being covered by a CCA.

applied to the Commission for state aid approval for new eligibility criteria to allow sectors not covered the PPC Regulations to be able to sign CCAs if they met the qualifying criteria. The Commission approved the UK's application in October 2005.

- 4.4 The Climate Change Agreements (Energy-intensive Installations) Regulations 2006 (SI 2000/59), which came into force on 19 January 2006, expanded the types of installation that may form a CCA facility to include the installations described in the Schedule to that instrument (i.e. those for which state aid approval was granted). The Climate Change Agreements (Eligible Facilities) Regulations 2006 (SI 2006/60) prescribed the conditions of eligibility for the new installations in order for them to be eligible to enter into CCAs.
- 4.5 State aid approval for further sectors was granted on 12 April 2006, making it necessary to amend SIs 2006/59 and 60 so as to expand CCA eligibility to cover the new sectors.
- 4.6 **The Climate Change Agreements (Miscellaneous Amendments) Regulations 2006 were made on 11 July 2006 by HMT. These regulations amend S.I. 2006/59 by expanding the type of installation that may form a facility taken as being covered by a climate change agreement to include any installation not otherwise covered by paragraph 51 of the Schedule 6 to the Finance Act 2000. The conditions of eligibility for such installations to enter into CCAs are those set out in SI 2006/60, subject to the amendments to be made by this instrument. The particular amendments to be made by this instrument replace the Schedule in SI 2006/60 with a new one. The new schedule adds five new descriptions of installations and relevant processes belonging to the following sectors: extraction and processing of sand and clay for glass making, manufacture of geosynthetic materials, production of potash, glass manipulation and cold stores. The new schedule also makes certain formatting amendments to the items listed in the previous schedule.**
- 4.7 The scheme as a whole takes advantage of the frameworks in Articles 5 and 17 of Council Directive 2003/96/EC (taxation of energy products and electricity) (OJ No L 283, 31.10.03, p 51) (differentiated rates above the minimum levels, and other reductions for energy-intensive businesses).
- 4.8 The Directive was:
- Cleared by the House of Lords – 9 December 2002.
 - Debated in Standing Committee B, House of Commons – 27 October 1999.
 - Cleared by the House of Commons – 27 November 2002.

5. Extent

This instrument applies to all of the United Kingdom

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The CCL and CCAs are an important part of the UK's Climate Change Programme to meet the UK's commitments under the Kyoto Protocol. The Protocol aims to reduce emissions of six greenhouse gases from developed countries between 2008 and 2012 by at least 5% below 1990 levels. The European Union and its member States agreed to a burden-sharing agreement of an 8% reduction in greenhouse gas emissions by 2012. As part of this agreement, the United Kingdom has taken on a reduction of 12.5%.
- 7.2 The CCAs have been very successful in improving energy efficiency in the existing sectors. In aggregate they have beaten their targets by the equivalent of 1 million tonnes of carbon (MtC) a year in the first target period (to 2002) and by 1.4 MtC a year in the second target period (to 2004). The new sectors have taken on targets to improve their energy efficiency by between 8 and 15 % in the remaining five years of the agreements' life. So, as well as removing some of the competitive distortions referred to above, there is a sound environmental rationale for extending the agreements to other energy-intensive sectors exposed to international competition.
- 7.3 The level of public interest will be mainly restricted to the business sectors for which the new eligibility criteria are relevant, suppliers who will provide them with energy at the reduced CCL rates, and business associations such as the Confederation of British Industry (who argued for, and welcomed, the widening of eligibility).

8. Impact

- 8.1 A Regulatory Impact Assessment has not been produced for this instrument as it has no impact on the costs of business.
- 8.2 The impact on the public sector is absorbed within existing practices and there is no overall net cost to the Exchequer.

9. Contact

Marie Pender at the Department for Environment, Food and Rural Affairs Tel: GTN 3544 7828 or e-mail marie.pender@defra.gsi.gov.uk can answer any queries regarding the instrument.

