
STATUTORY INSTRUMENTS

2012 No. 2999

**The Climate Change Agreements
(Eligible Facilities) Regulations 2012**

Citation, commencement and expiry

1.—(1) These Regulations may be cited as the Climate Change Agreements (Eligible Facilities) Regulations 2012.

(2) They come into force on 1st January 2013.

(3) Regulations 3 to 8 cease to have effect at the end of 31st March 2023.

Interpretation

2. In these Regulations—

“the Act” means the Finance Act 2000;

“the Waste Framework Directive” means Directive [2008/98/EC](#) of the European Parliament and of the Council on waste⁽¹⁾;

“aircraft” includes gliders and missiles;

“coating material” means paint, printing ink, varnish, lacquer, dye, any metal oxide coating, any adhesive coating, any elastomer coating, any metal or plastic coating and any other coating material;

“eligible process” means a process or activity or a combination of processes or activities listed in the Schedule to these Regulations carried out at an installation or site;

“food” includes—

- (a) drink,
- (b) articles and substances of no nutritional value which are used for human consumption, and
- (c) articles and substances used as ingredients in the preparation of food;

“hazardous waste” means waste which displays any of the characteristics listed in Annex III of the Waste Framework Directive;

“installation” means—

- (a) an installation falling within any one or more of the descriptions of installations set out in the Table to paragraph 51 of Schedule 6 to the Act; or
- (b) an installation covered by paragraph 51 of Schedule 6 to the Act by virtue of the Climate Change Agreements (Energy-intensive) Regulations 2006⁽²⁾ carrying out an eligible process;

“reckonable energy” has the meaning given by regulation 4;

(1) OJ No L 312, 22.11.2008, p. 3.

(2) [S.I. 2006/59](#); amended by [S.I. 2006/1848](#).

“recovery” has the same meaning as in the Waste Framework Directive and related terms are to be construed accordingly;

“relevant commodities” means—

- (a) taxable commodities;
- (b) hydrocarbon oil within the meaning of the Hydrocarbon Oil Duties Act 1979(3);
- (c) any mixture of gases which originates from an oil refinery;
- (d) biomass;
- (e) non-renewable waste;

“waste” means anything that—

- (a) is waste within the meaning of Article 3(1) of the Waste Framework Directive; and
- (b) is not excluded from the scope of that Directive by Article 2(1), (2) or (3) of that Directive;

“waste incineration plant” means any stationary or mobile technical unit and equipment dedicated to the thermal treatment of waste, with or without recovery of the combustion heat generated, through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated;

“waste co-incineration plant” means any stationary or mobile technical unit whose main purpose is the generation of energy or production of material products and which uses waste as a regular or additional fuel or in which waste is thermally treated for the purpose of disposal through the incineration by oxidation of waste as well as other thermal treatment processes, such as pyrolysis, gasification or plasma process, if the substances resulting from the treatment are subsequently incinerated.

Eligible Facilities

3.—(1) An installation or a site is to be taken to be a facility for the purposes mentioned in paragraph 50(1) of Schedule 6 to the Act only if—

- (a) at least 70% of the reckonable energy supplied to the installation or to the site is intended to be used in the installation, installations or parts of installations on the site; and
- (b) the taxable commodities supplied to the installation or to the site by taxable supplies in the following 12 month period are intended to be burned (or, in the case of electricity, consumed)—
 - (i) in the installation, installations or part of installations on the site; or
 - (ii) on the site where the installation, installations or parts of installations are situated.

(2) For the purposes of paragraph (1)(a), supply or use of reckonable energy during the previous 12 month period must be used to determine the intended supply or use of reckonable energy in the following 12 month period.

Reckonable energy

4. Reckonable energy is—

- (a) energy obtained from the burning or using of relevant commodities in the installations or parts of installations on the site;

- (b) electrical energy supplied to the installation, installations or parts of installations on the site;
- (c) energy in cooling supplies; or
- (d) energy in supplies of steam.

Calculation of reckonable energy from relevant commodities and electricity

5.—(1) Reckonable energy from relevant commodities, other than electricity, must be calculated by reference to the gross calorific value of the commodity burned to produce it.

(2) Subject to regulations 6 and 7, the quantity of electricity must be multiplied by a factor of 2.6 to convert it into reckonable energy.

Calculation of reckonable energy from dedicated electricity generation plant

6. Except where regulation 7 applies, for electricity generated in plant which is located in, and intended for supplying electricity for use by a facility—

- (a) reckonable energy must be calculated by reference to the gross calorific value of the commodity burned to produce the electricity; and
- (b) where the electricity is used on other parts of a site, the electricity generated must be attributed to the facility and the rest of the site on a pro rata basis.

Calculation of reckonable energy from combined heat and power stations

7.—(1) Reckonable energy from a combined heat and power station must be calculated by reference to the gross calorific value of the commodity burned to produce it.

(2) Where part of the energy from a combined heat and power station is used in a place, the formulae set out in paragraphs (3) to (5) must apply for calculating the reckonable energy from the station in relation to that place.

(3) The following formula applies in respect of electricity from the combined heat and power station which is used in that place—

$$RE = \frac{2EC \times EP}{2ET + HT}$$

where—

RE is the reckonable energy in respect of electricity from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

EP is the quantity of electricity produced by the combined heat and power station which is used in that place;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place and elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place and elsewhere.

(4) If no electricity from the combined heat and power station is put into public supply, the following formula applies in respect of heat which is used in that place—

$$RHN = \frac{EC \times HP}{2ET + HT}$$

where—

RHN is the reckonable energy in respect of heat from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

HP is the quantity of heat produced by the combined heat and power station which is used in that place;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place and elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place and elsewhere.

(5) If electricity from the combined heat and power station is put into public supply, the following formula applies in respect of heat which is used in that place—

$$RHS = \left[\frac{EC \times HP}{(2ET + HT)} \right] - \left[\frac{HP \times ES}{HT} \left(2.6 - \frac{2EC}{2ET + HT} \right) \right]$$

where—

RHS is the reckonable energy in respect of heat from the combined heat and power station which is used in that place;

EC is the total energy content of the relevant commodities burned in the combined heat and power station calculated by reference to the gross calorific value of each commodity;

HP is the quantity of heat produced by the combined heat and power station which is used in that place;

ES is the quantity of electricity produced by the combined heat and power station and put into public supply;

ET is the total quantity of electricity produced by the combined heat and power station which is used in that place and elsewhere; and

HT is the total quantity of heat produced by the combined heat and power station which is used in that place and elsewhere.

(6) For the purposes of paragraphs (4) and (5), electricity is put into public supply when it is supplied to an electricity utility.

(7) Where absorption cooling is used to produce a cooling supply for use in the installation, installations or parts of installations on a site and the heat for the absorption cooling is from a combined heat and power station—

(a) the heat used to provide the cooling supply must be treated for the purposes of paragraphs (1) to (6) as used in the place where the cooling supply is used; and

(b) the quantity of that heat must be estimated by dividing the output of the cooling supply by the coefficient of performance of the cooling system.

Calculation of reckonable energy from steam

8. The reckonable energy in respect of steam supplied to the installation, installations or parts of installations on a site must be calculated by taking the enthalpy of the steam consumed by the installation, installations or parts of installations and dividing it by the efficiency of the system which generates the steam and supplies it to that installation, those installations or parts of those installations where it is used.

Revocations and transitional provision

9.—(1) Subject to paragraph (2), the following Regulations are revoked—

- (a) the Climate Change Agreements (Eligible Facilities) Regulations 2001⁽⁴⁾;
- (b) the Climate Change Agreements (Eligible Facilities) Regulations 2006⁽⁵⁾;
- (c) the Climate Change Agreements (Eligible Facilities) (Amendment) Regulations 2006⁽⁶⁾;
- (d) the Climate Change Agreements (Eligible Facilities) (Amendment) Regulations 2009⁽⁷⁾.

(2) The regulations listed in paragraph (1) continue to have effect in relation to climate change agreements entered into with the Secretary of State before the coming into force of these Regulations.

Review

10.—(1) Before the end of the review period, the Secretary of State must—

- (a) carry out a review of regulations 3 to 8,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

(2) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by regulations 3 to 8,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(3) “Review period” means the period of five years beginning with the day on which these Regulations came into force.

29th November 2012

Gregory Barker
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(4) [S.I. 2001/662](#).
(5) [S.I. 2006/60](#).
(6) [S.I. 2006/1931](#).
(7) [S.I. 2009/2458](#).