

## SCHEDULE 1

### Supplies and emissions

#### SECTION 5

#### *Deductions from supplies*

#### **Deductions from supplies**

**13.**—(1) This section provides for deductions in calculating the amount of a supply of electricity or gas under section 1, 2, 3 or 4 of this Schedule.

(2) The deductions apply only where provided under this Order.

#### **Unconsumed supply: electricity**

**14.**—(1) Sub-paragraph (3) applies where A does not consume for its own use some or all of the supply to it of electricity.

(2) The amount not consumed by A is “unconsumed supply”.

(3) Subject to paragraph 16(3), A may deduct from its electricity supply the unconsumed supply measured by—

- (a) a metering device; or
- (b) a device which measures electricity supplied but the measurements are not used for the purpose of charging for that electricity.

#### **Unconsumed supply: gas**

**15.**—(1) Sub-paragraph (3) applies where A does not consume for its own use some or all of the supply to it of gas.

(2) The amount not consumed by A is “unconsumed supply”.

(3) Subject to paragraph 16(3), A may deduct from its gas supply the unconsumed supply measured by—

- (a) a metering device; or
- (b) a device which measures gas supplied but the measurements are not used for the purpose of charging for that gas.

#### **Occupation of premises**

**16.**—(1) Sub-paragraph (2) applies where—

- (a) A has an unconsumed supply; and
- (b) that unconsumed supply is consumed by a person (“B”) in respect of premises which B occupies with the permission of A.

(2) Subject to sub-paragraph (3), paragraphs 14(3) and 15(3) do not apply to an unconsumed supply to which sub-paragraph (1) applies.

(3) Sub-paragraph (2) does not apply where—

- (a) B is a Northern Ireland Department which occupies premises with the permission of A, and A is another Northern Ireland Department; or

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- (b) B has entered into a construction lease with A in respect of the premises described in paragraph (1)(b).
- (4) A “construction lease” is a lease entered into between A and B for a minimum period of 30 years where—
  - (a) B covenants—
    - (i) to obtain all necessary consents and approvals and to erect fencing or erect a building on the premises within a period of not more than 2 years from the lease commencement date;
    - (ii) to install all necessary gas, electricity and water supplies to the premises to comply with statutory requirements within a period of not more than 2 years from the lease commencement date; and
    - (iii) if required by A, to remove any buildings or works constructed by B on the premises at termination of the lease; and
  - (b) A covenants to compensate B for any improvements made to the premises by B during the period of the lease.

### **Consumption outside the United Kingdom**

17. A is not supplied with electricity or gas to the extent that supply is consumed by A outside the United Kingdom.

### **Domestic accommodation**

- 18.—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas—
- (a) to the extent that supply is consumed by A for the purposes of domestic accommodation; and
  - (b) where the conditions in sub-paragraph (4) are satisfied concerning that accommodation.
- (2) A is supplied with electricity or gas in respect of common areas described in sub-paragraph (5)(b) where a decision has been made under sub-paragraph (6) that those common areas are not part of the domestic accommodation.
- (3) “Domestic accommodation” means premises or that part of premises intended to be used as a person’s permanent home.
- (4) The conditions referred to in sub-paragraph (1) are—
- (a) the accommodation is not provided in relation to a person’s education, employment or service; and
  - (b) no services are provided for the care of a person in residence in that accommodation by the person to whom the supply of electricity or gas is made.
- (5) Where common areas of premises are used in relation to domestic accommodation and the premises are used—
- (a) solely for domestic accommodation; or
  - (b) partly for domestic accommodation,
- the common areas are part of that accommodation.
- (6) A may decide that the common areas where sub-paragraph (5)(b) applies are not part of the domestic accommodation.
- (7) A decision made under sub-paragraph (6)—
- (a) may be made in respect of—

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- (i) the supply in the qualification year of a phase and where so made, applies to the phase;
  - (ii) a phase where it was not made in respect of the qualification year, where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

### **Caravan sites: accommodation**

**19.**—(1) A is not supplied with electricity or gas to the extent that supply is consumed by A directly for the purposes of accommodation at a caravan site.

(2) “Caravan site” means—

- (a) in England and Wales and Scotland, a caravan site within the meaning of section 1(4) of the Caravan Sites and Control of Development Act 1960(1) which is in accordance with Part 1 of that Act—
  - (i) licensed;
  - (ii) exempt from requiring a licence; or
  - (iii) provided by a local authority as defined by that Part;
- (b) in England and Wales, land licensed under section 269 of the Public Health Act 1936(2) for use as a site for a moveable dwelling within the meaning of that section;
- (c) in Northern Ireland, a caravan site within the meaning of section 1(4) of the Caravans Act (Northern Ireland) 1963(3) which is—
  - (i) licensed in accordance with section 1(1) of that Act;
  - (ii) exempt from requiring a licence under section 2 of that Act;
  - (iii) provided by a district council as defined by section 21 of that Act(4); or
  - (iv) provided by the Northern Ireland Housing Executive pursuant to Article 28A of the Housing (Northern Ireland) Order 1981(5).

### **Emergency and temporary accommodation**

**20.**—(1) Where A is a housing body, A is not supplied with electricity or gas to the extent the supply is consumed by A for the purposes of emergency or temporary accommodation.

(2) In sub-paragraph (1)—

- (a) “emergency or temporary accommodation” means accommodation provided in discharge of a duty on the housing body under—
  - (i) in England and Wales, Part VII of the Housing Act 1996(6);
  - (ii) in Scotland, Part II of the Housing (Scotland) Act 1987(7);

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(1) 1960 c. 62.

(2) 1936 c. 49. Section 269 was amended by sections 30(1) and 48(1) of and Schedule 4 to the Caravan Sites and Control of Development Act 1960 (c. 62). There are other amendments to section 269 which are not relevant.

(3) 1963 c. 17. Paragraph 9 of the Schedule was amended by article 133(1) of and Schedule 5 to the Planning (Northern Ireland) Order 1991 (S.I. 1991/1220 (N.I. 11)).

(4) Section 21 was amended by S.R. (NI) 1973 No 285.

(5) S.I. 1981/156 (N.I. 3). Article 28A was inserted by S.I. 2003/412 (N.I. 2).

(6) 1996 c. 52. Part VII is subject to various amendments under Schedule 1 to the Homelessness Act 2002 (c. 7).

(7) 1987 c. 26. Part II is subject to various amendments under section 3 of and Schedule 10 to the Housing (Scotland) Act 2001 (asp. 10) and section 25 is amended by section 1 of the Homelessness etc (Scotland) Act 2003 (asp. 10).

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- (iii) in Northern Ireland, Part II of the Housing (Northern Ireland) Order 1988<sup>(8)</sup>;
- (b) “housing body” means—
  - (i) in England and Wales, a local housing authority within the meaning of Part VII of the Housing Act 1996;
  - (ii) in Scotland, a local authority within the meaning of Part II of the Housing (Scotland) Act 1987;
  - (iii) in Northern Ireland, the Northern Ireland Housing Executive.

### **Transport consumption**

**21.**—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas to the extent that supply is consumed by A for the purposes of transport.

(2) A is supplied with an un-metered electricity or gas transport supply where a decision has been made that such a supply is not consumed for the purposes of transport under paragraph 22 or 23.

### **Un-metered transport supply: electricity**

**22.**—(1) Sub-paragraph (2) applies where—

- (a) A has consumed a supply of electricity for the purposes of transport; and
- (b) part of that supply so consumed was not measured by a meter of any sort (“un-metered electricity transport supply”).

(2) Where this sub-paragraph applies, A may decide that un-metered electricity transport supply is not consumed for the purposes of transport.

(3) A decision made under sub-paragraph (2)—

- (a) may be made in respect of—
  - (i) qualifying electricity in the qualification year of a phase and where so made, applies also to supplies of electricity during the phase;
  - (ii) a phase where it was not made in respect of the qualification year, where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

### **Un-metered transport supply: gas**

**23.**—(1) Sub-paragraph (2) applies where—

- (a) A has consumed gas for the purposes of transport; and
- (b) part of that supply so consumed was not measured by a meter of any sort (“un-metered gas transport supply”).

(2) Where this sub-paragraph applies, A may decide that un-metered gas transport supply during a phase is not consumed for the purposes of transport.

(3) A decision made under sub-paragraph (2)—

- (a) may be made in respect of a phase where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

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<sup>(8)</sup> S.I. 1988/1990 (N.I. 23). Part II is subject to various amendments under chapter IV of the Housing (Northern Ireland) Order 2003 (S.I. 2003/412 (N.I. 2)).

### **Purposes of transport**

**24.**—(1) In paragraph 21, electricity or gas is consumed for the purposes of transport where it is used—

- (a) by a road going vehicle, a vessel, an aircraft or a train;
- (b) in relation to railways, for network services except where electricity or gas is used to provide power, heat or light to a building; or
- (c) to provide power for the operation of a conveyor belt which is—
  - (i) at least 8 kilometres in length; and
  - (ii) used to transport materials to an off site facility from which facility the materials will be transported on a railway or a vessel using inland waters.

(2) The following definitions have effect for the purposes of sub-paragraph (1)—

“aircraft” means a self-propelled machine that can move through the air other than against the earth’s surface;

“inland waters” means—

- (a) any river, stream or other watercourse, whether natural or artificial and whether tidal or not;
- (b) any lough, lake or pond, whether natural or artificial, and any reservoir or dock; and
- (c) any channel, creek, bay, estuary or arm of the sea;

“network services” has the same meaning it has in section 82 of the Railways Act 1993(9) but as if section 82(3)(h) of that Act did not apply;

“railway” has the meaning given in section 67(1) of the Transport and Works Act 1992(10);

“road going vehicle” means any vehicle—

- (a) in respect of which a vehicle licence is required under the Vehicle Excise and Registration Act 1994(11);
- (b) which is an exempt vehicle under that Act; or
- (c) which is required to display a certificate of Crown exemption under regulation 31 of the Road Vehicles (Registration and Licensing) Regulations 2002(12);

“train” has the same meaning it has in section 83 of the Railways Act 1993;

“vessel” means any boat or ship which is self-propelled and operates in or under water.

### **Consumption of gas for purposes other than heating**

**25.** A is not supplied with gas to the extent that supply is consumed by A for purposes other than for the purposes of heating.

### **Purposes of heating**

**26.**—(1) In paragraph 25, gas is consumed for the purposes of heating where it is used as part of a process where the primary purpose of that process is the generation of heat.

(2) Gas used in the process of combined heat and power generation is not consumed for the purposes of heating.

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(9) 1993 c. 43.

(10) 1992 c. 42.

(11) 1994 c. 22.

(12) S.I. 2002/2742.

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### **Minimal gas heating supply levels**

27.—(1) Sub-paragraph (2) applies where the amount of gas supplied to A for the purposes of heating is less than 2% of the amount of electricity supplied to A in the first annual reporting year of a phase (“minimal gas heating supply”).

(2) Where this sub-paragraph applies, A may decide that minimal gas heating supply is not consumed for the purposes of heating.

(3) A decision under sub-paragraph (2)—

- (a) may be made in respect of a phase where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

### **EU ETS installations**

28.—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas to the extent that supply is consumed by A for the purposes of operating an EU ETS installation.

(2) A is supplied with electricity or gas where A decides that such a supply is not consumed for the purposes of operating an EU ETS installation.

(3) A decision made under sub-paragraph (2)—

- (a) may be made in respect of a phase where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

### **CCA facility consumption**

29.—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas to the extent that supply is consumed by A for the purposes of operating a CCA facility specified in a current specified facility certificate.

(2) A is supplied with electricity or gas where A decides that such a supply is not consumed for the purposes of operating a CCA facility specified in a specified facility certificate.

(3) A decision made under sub-paragraph (2)—

- (a) may be made in respect of a phase where such a decision is made on or before the participant submits its first annual report for that phase;
- (b) must not be altered during the phase.

(4) For the purposes of the initial phase, A is not supplied with electricity or gas to the extent that it is consumed by A for the purposes of operating a CCA facility that is subject to a CCA target that ends no earlier than 2 months before the beginning of that phase.