

EXPLANATORY MEMORANDUM TO
THE CLIMATE CHANGE AGREEMENTS (ELIGIBLE FACILITIES)
(AMENDMENT) REGULATIONS 2014

2014 No 1318

1. This explanatory memorandum has been prepared by the Department of Energy and Climate Change and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of this instrument

2.1 This instrument amends the Climate Change Agreements (Eligible Facilities) Regulations 2012 to make the standalone data centres sector, whose business is the leasing or licensing of space, (which is described in the Regulations) for use as a data centre, eligible to join the Climate Change Agreements (CCA) scheme. This instrument also makes the sawmilling sector eligible to join the CCA scheme

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

3.1 None

4. Legislative context

4.1 The regulations are being made pursuant to powers in the parent legislation, the Finance Act 2000.

5. Territorial extent and application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Climate Change Levy (CCL) is a tax on electricity, natural gas, liquefied petroleum gas and solid fuels when supplied to the business and public sectors. The levy is designed to encourage energy efficiency and the take up of electricity from renewable sources in order to reduce carbon emissions. It was introduced on 1 April 2001.

7.2 The CCA scheme was introduced at the same time as the levy. Eligible energy intensive businesses entered into agreements to meet challenging energy efficiency or carbon

emissions reduction targets and, as a result, became entitled to pay a reduced rate of CCL on all taxable commodities. Currently 51 sectors and approximately 4,300 businesses have CCAs. The scheme is administered by the Environment Agency, which is responsible for managing agreements and assessing performance against targets.

7.3 The standalone data centres and sawmilling sectors applied to join the CCA scheme and have been assessed against the scheme criteria for eligibility. The sawmilling sector has qualified by virtue of meeting the primary eligibility criteria: 3% energy intensity and 50% or more import penetration. The standalone data centres sector did not meet these primary criteria, but qualified by virtue of meeting the secondary, 10% sector level energy intensity, criterion.

7.4 The eligibility of standalone data centres and sawmilling for the CCA scheme was formally announced in the Autumn Statement 2013 and Budget 2014 respectively.

7.5 Confor (The Confederation of Forest Industries) has been representing the sawmilling sector throughout the establishment of their CCA. The business activity of the sawmilling sector is the sale of logs that have been debarked and sawn, and sometimes then subjected to additional processing (e.g. drying, shaping and chemical treatment). TechUK has been representing the standalone data centres sector throughout the establishment of their CCA. The business activity of the standalone data centres sector is the leasing or licensing of space, which is described in the Regulations, for use as a data centre.

8. Consultation outcome

8.1 A consultation has not been undertaken, as the inclusion of two new sectors does not change any of the scheme rules or guidance previously consulted upon.

9. Guidance

9.1 Scheme guidance is available on the Gov.UK website. A link is provided below:

<https://www.gov.uk/climate-change-agreements--2>

9.2 Additional advice can be sought from the relevant sector association.

10. Impact

10.1 As CCAs are voluntary, businesses within an eligible sector are not obliged to join the scheme, and impact is therefore confined to those businesses that decide to enter into an agreement. Those who do enter into an agreement are not obliged to meet their targets, but failure to meet a target necessitates the payment of a buy-out fee; this is based on the amount of reported energy or emissions that exceed the agreed target. Not paying this fee will result in the cancellation of their agreement and therefore the loss of their CCL discount. Businesses are free to determine the most cost-effective way of meeting their targets.

10.2 There is no impact on charities or voluntary bodies.

10.3 There is no impact on the public sector.

10.4 An Impact Assessment has not been prepared for this document.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 This legislation could have a positive impact on small businesses within the standalone data centres and sawmilling sectors, as it enables them to qualify for a reduced rate of CCL on all taxable commodities by meeting agreed targets. The CCA scheme is voluntary and small businesses do not have to participate in it.

12. Monitoring and review

12.1 The targets set for the standalone data centres and sawmilling sectors and those of their operators will be monitored by the Environment Agency, who will assess performance against individual targets on a biennial basis and will write and publish a report accordingly.

13. Contact

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