

2023 No. 1226

CLIMATE CHANGE LEVY

The Climate Change Agreements (Administration and Eligible Facilities) (Amendment) Regulations 2023

<i>Made</i>	- - - -	<i>16th November 2023</i>
<i>Laid before the House of Commons</i>		<i>20th November 2023</i>
<i>Coming into force</i>		<i>31st December 2023</i>

The Secretary of State, in exercise of the powers conferred by paragraphs 50(3) to (5), 52D(1) to (4), 52E(1) and (2), 52F(1) and (7) and 146(7) of Schedule 6 to the Finance Act 2000(a), makes the following Regulations.

Citation and commencement

1.—(1) These Regulations may be cited as the Climate Change Agreements (Administration and Eligible Facilities) (Amendment) Regulations 2023.

(2) These Regulations come into force on 31st December 2023.

Amendment of the Climate Change Agreements (Administration) Regulations 2012

2.—(1) The Climate Change Agreements (Administration) Regulations 2012(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the definition of “target period”, at the end insert—

“(f) 1st January 2024 to 31st December 2024;”;

(b) after the definition of “target period 5” insert—

““target period 6” means the target period from 1st January 2024 to 31st December 2024;”.

(3) In regulation 12 (terms to be included in an underlying agreement relating to the buy-out fee)—

(a) in paragraph (2)(c)—

(i) in paragraph (i)—

(aa) for “or £18” substitute “£18”;

(bb) after “target period 5” insert “, or £25 where the finding is of a failure to meet a target for target period 6”;

(a) 2000 c. 17. Paragraphs 52D to 52F were inserted by the Finance Act 2012 (c. 14), section 207(b), Schedule 31, paragraphs 1 and 9. There are amendments to paragraph 146 not relevant to these Regulations.

(b) S.I. 2012/1976; relevant amending instruments are S.I. 2013/508, S.I. 2016/1189, S.I. 2020/958 and S.I. 2020/1470.

- (ii) in paragraph (iv), after “for target period 5” insert “and target period 6”;
 - (b) in paragraph (2)(d)(i)—
 - (i) for “or £18” substitute “£18”;
 - (ii) after “target period 5” insert “, or £25 where the finding is of a failure to meet a target for target period 6”.
- (4) In regulation 12A (terms to be included in an umbrella agreement relating to the buy-out fee)—
- (a) in paragraph (2), for “or target period 5” substitute “, target period 5 or target period 6”;
 - (b) in paragraph (3), for sub-paragraphs (i) to (iv) substitute—
 - “(a) A is £14 for target periods 3 and 4, £18 for target period 5, or £25 for target period 6;
 - (b) W in units of tCO₂ equivalent represents the amount by which the emissions for the target period exceed the target;
 - (c) S, for target periods 1 to 4, in units of tCO₂ equivalent represents any surplus; and
 - (d) S, for target periods 5 and 6, is zero.”;
 - (c) in paragraph (4), for sub-paragraphs (i) and (ii) substitute—
 - “(a) A is £14 for target periods 3 and 4, £18 for target period 5, or £25 for target period 6; and
 - (b) W in units of tCO₂ equivalent represents the amount by which the emissions for the target period exceed the target.”
- (5) In regulation 14 (terms to be included in an underlying agreement relating to the provision of information), for paragraph (2)(a) substitute—
- “(a) provide to the administrator on or before 1st May following the end of a target period such information as has been requested by the administrator—
 - (i) in order to determine whether progress towards meeting the target is, or is likely to be, taken to be satisfactory; and
 - (ii) about the actions taken, in relation to energy efficiency improvements or emissions reductions, in order to meet the target; and”.
- (6) In regulation 15 (financial penalties)—
- (a) after paragraph (1) insert—
 - “(1ZA) The amount of the financial penalty that may be imposed under paragraph (1) is—
 - (a) the maximum amount as determined in accordance with paragraphs (1A) to (3); or
 - (b) where the administrator considers it appropriate, such lower amount as the administrator considers appropriate.”.
 - (b) in paragraph (2)—
 - (i) for “the amount of the financial penalty” substitute “the maximum amount of the financial penalty”;
 - (ii) in sub-paragraph (a), for “£250” substitute “£500”;
 - (c) in paragraph (2B)—
 - (i) for “the amount” substitute “the maximum amount”;
 - (ii) in sub-paragraph (a), for “£250” substitute “£500”;
 - (d) in paragraph (3)—
 - (i) for “the amount” substitute “the maximum amount”;
 - (ii) in sub-paragraph (a), for “£250” substitute “£500”;
 - (iii) in sub-paragraph (b), after paragraph (ii) insert—

“(iii) £25 per tCO₂ equivalent of the difference between the actual emissions and the reported emissions for target period 6.”.

(7) After regulation 16 insert—

“Publication of a financial penalty

16A.—(1) The administrator must publish the following information in relation to a financial penalty imposed on an operator under regulation 15—

- (a) the name of the operator;
- (b) the amount of the penalty imposed; and
- (c) a description of the contravention that led to the imposition of the penalty.

(2) The information listed in paragraph (1) must be published for a period of at least one year.

(3) Paragraphs (1) and (2) do not take effect until the period specified for any appeal against the financial penalty has expired.

(4) This regulation does not apply in relation to a financial penalty imposed before 31st December 2023.

Withdrawal, reduction or extension of time for payment of a financial penalty

16B.—(1) On or before the date by which a penalty must be paid, as specified in a notice under regulation 16, if the administrator considers it appropriate, the administrator may decide to—

- (a) withdraw the penalty;
- (b) reduce the penalty;
- (c) allow an extension of time for payment of the penalty.

(2) If under paragraph (1)—

- (a) the administrator decides to withdraw a financial penalty, the administrator must—
 - (i) serve a notice on the operator stating that the penalty is withdrawn; and
 - (ii) where information in respect of the penalty is published under regulation 16A, publish information showing that the penalty is withdrawn;
- (b) the administrator decides to reduce a financial penalty, the administrator must—
 - (i) serve a notice on the operator modifying the notice served under regulation 16 in respect of the penalty; and
 - (ii) where information in respect of the penalty is published under regulation 16A, publish information showing the reduced amount of the penalty;
- (c) the administrator decides to allow an extension of time for payment of a financial penalty, the administrator must serve a notice on the operator modifying the notice served under regulation 16 in respect of the penalty.”.

(8) In regulation 18 (power to terminate an agreement), after paragraph (5) insert—

“(5A) The administrator may terminate an underlying agreement so far as it applies to a facility if the party to the agreement ceases to be an eligible representative of the facility.

(5B) In paragraph (5A), “eligible representative” means, in relation to a facility, a person who—

- (a) operates the facility; or
- (b) is authorised by the operator to operate a facility on their behalf.”

Amendment of the Climate Change Agreements (Eligible Facilities) Regulations 2012

3.—(1) The Climate Change Agreements (Eligible Facilities) Regulations 2012(a) are amended as follows.

(2) In regulation 1 (citation, commencement and expiry), in paragraph (3), for “2025” substitute “2027”.

16th November 2023

Callanan
Parliamentary Under Secretary of State
Department for Energy Security and Net Zero

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations extend the scheme providing for a reduced rate of Climate Change Levy until 31st March 2027. Part IV of Schedule 6 to the Finance Act 2000 makes provision for a reduced rate of Climate Change Levy to be charged if a facility which receives supplies of energy is certified as being covered by a Climate Change Agreement for a certification period.

Regulation 2 amends the Climate Change Agreements (Administration) Regulations 2012 (S.I. 2012/1976) to provide for a new target period from 1st January 2024 to 31st December 2024 (“target period 6”). During a target period, a facility must meet targets for energy use or emissions which are specified in a Climate Change Agreement in order to be eligible for a reduced rate of Climate Change Levy. If a facility does not meet any target for a target period, it may pay a buy-out fee on each tonne of carbon dioxide equivalent by which it falls short of meeting that target. If a facility overachieves against a target, there will be a surplus, being the amount by which the reduction in emissions has exceeded the target.

Regulation 2 also amends the terms to be included in Climate Change Agreement to increase the buy-out fee. Regulation 2 also amends the terms to be included in an underlying agreement to require operators to provide information, where requested by the administrator, in relation to energy efficiency improvements or emissions reductions action taken to meet the target.

Amendments are also made to the financial penalty provisions to increase the amount of the financial penalty that may be imposed and to enable the administrator to impose a lower amount, if it considers appropriate. Amendments are made to require the administrator to publish certain information about the financial penalties that it imposes and to enable the administrator to withdraw a financial penalty, reduce the penalty amount or allow additional time for payment of the penalty. Amendments also widen the circumstances in which the administrator may terminate an underlying agreement.

Regulation 3 amends the Climate Change Agreements (Eligible Facilities) Regulations 2012 (S.I. 2012/2999) to extend the scheme until 31st March 2027.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

(a) S.I. 2012/2999; relevant amending instrument is S.I. 2020/958.

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