Draft Regulations laid before Parliament under section 30 of and Schedule 6, paragraph 146(3) to the Finance Act 2000, for approval by resolution of the House of Commons.

DRAFT STATUTORY INSTRUMENTS

2005 No.

CLIMATE CHANGE LEVY

The Climate Change Levy (Combined Heat and Power Stations) Regulations 2005

Made - - - - 2005

Coming into force in accordance with regulation 1

The Treasury, in exercise of the powers conferred by section 30 of and Schedule 6, paragraphs 15(4), 16(2), 16(3), 146(7), 147, 148(4), 148(7), 148(8), 148(9), 149(1), 149(2) and 149(3) to the Finance Act 2000(**1**), make the following Regulations, a draft of which has, in accordance with paragraph 146(3) of that Schedule, been laid before Parliament and approved by a resolution of the House of Commons:

Preliminary

1. These Regulations may be cited as the Climate Change Levy (Combined Heat and Power Stations) Regulations 2005 and shall come into force on the day after the day on which they are made.

2.—(1) In these Regulations—

"the Act" refers to Schedule 6 to the Finance Act 2000(**2**);

"CCL" refers to climate change levy;

"CHPQA" refers to the Combined Heat and Power Quality Assurance Standard, Issue 1, November 2000 originally published by the Department for the Environment, Transport and the Regions (the "Standard") (including the later of version Final 1.0 or 2.0 of CHPQA Guidance Notes(**3**) 0 to 4 (including 2(S), 3(S) and 4(S)), 10 to 28 and 30);

"station" refers to a combined heat and power station or, in appropriate circumstances, to combined heat and power stations forming at least part of a single CHP Scheme.

(**1**) 2000 c. 17; paragraphs 15, 148 and 149 are amended by the Finance Act 2003 (c. 14) sections 189 and 216 and Schedule 43 Part 4 in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint (about which, see S.I. 2005/XXXX (C. XX)).

(**2**) 2000 c. 17.

(**3**) CHPQA Guidance Notes are explained in Section 5.1 of the Standard.

(2) But, for the purposes of regulation 3(2), "CHPQA" refers to the current issue of that Standard and current versions of those and any subsequent Guidance Notes.

An issue or version is current for these purposes to the extent that it is neither varied, replaced nor revoked by another issue or version.

(3) These Regulations must be applied in a way consistent with the CHPQA and paragraph (2).

But, for the purposes of regulations 3(2) and 4, any reference in the CHPQA to any relevant "registered" quantity (whether or not mentioned in either regulation) must be treated as a reference to the actual quantity of that name for determination and calculation in accordance with the CHPQA.

That determination and calculation must be on the basis of events in relation to the given station during the given Annual Operation (for "Annual Operation", see CHPQA Section 4 – 1st January to 31st December).

Supplies to combined heat and power stations: exemption for inputs

3.—(1) A station's threshold efficiency percentage is set as 20 per cent (see paragraphs 15(2)(b), 15(3)(b) and 15(4)(a) of the Act).

(2) A station's efficiency percentage for a given Annual Operation is its Power Efficiency in relation to that Operation (see paragraphs 15(4)(b), 149(1) and 149(2)(e) of the Act(**4**) and Section 5.6 of the Standard).

Supplies from partly exempt combined heat and power stations: exemption for outputs

4. The limit (see paragraph 16(2) of the Act) on the quantity of electricity that may be produced in and supplied from a partly exempt station exempt from CCL for a given Annual Operation is its CHP Qualifying Power Output in relation to that Operation (see Section 5.8 of the Standard).

Fully exempt combined heat and power stations: conditions to be satisfied for full-exemption certificate

5.—(1) The condition to be satisfied in relation to a station for the purpose of the Secretary of State giving a full-exemption certificate is as follows (see paragraph 148(4) of the Act).

(2) The station's Quality Index as determined and calculated in accordance with the CHPQA must at least meet the Threshold Quality Index Criterion specified for that station in the CHPQA (see Sections 5.5 and 4 of the Standard).

Transitional provisions: inputs efficiency percentage and outputs partly exempt limit

6.—(1) Paragraph (2) applies only if regulations 2(2) and 2(3) result in more than one issue of the Standard or version of a Guidance Note being current during the Annual Operation in question and, if they are treated as separately current for the whole Annual Operation, this yields different efficiency percentages for the purposes of regulation 3(2).

(2) The efficiency percentage in regulation 3(2) is then the weighted mean of those different efficiency percentages.

The weighting must reflect the proportion of fuel input to the station during the period in relation to which the relevant issue or version is current.

(**4**) Paragraphs 15 and 149 are amended by the Finance Act 2003 (c. 14) sections 189 and 216 and Schedule 43 Part 4 in relation to supplies made on or after such day as the Treasury may by order made by statutory instrument appoint (about which, see S.I. 2005/XXXX (C. XX)).