EXPLANATORY MEMORANDUM TO

THE CLIMATE CHANGE LEVY (GENERAL) (AMENDMENT) REGULATIONS 2015

2015 No. 947

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty's Revenue and Customs (HMRC) and is laid before the House of Commons by Command of Her Majesty.

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends the Climate Change Levy (General) Regulations 2001 (SI 2001/838) (the principal regulations). The amendment inserts a new formula to determine the quantity of carbon price support (CPS) rate commodities that are liable to the CPS rates of climate change levy (CCL) which are consumed in good quality combined heat and power (CHP) stations and referable to the production of electricity (other than electricity that is either self-supplied or supplied under an exemption from the requirement for an electricity supplier licence). The instrument also makes some consequential amendments.

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

3.1 It has not been possible to comply with the 21 day rule. This is because the instrument has to come into force on 1 April 2015 but it could not be made and laid until the amendment made to paragraph 24B of Schedule 6 to the Finance Act 2000 by section 63 of the Finance Act 2015 (c.11) had received Royal Assent.

4. Legislative Context

4.1 Section 63 of the Finance Act 2015 amended paragraph 24B of Schedule 6 to the Finance Act 2000 to the effect that the operator of a CHP station is not deemed to have made a taxable supply to himself in respect of CPS rate commodities where these are used to generate good quality electricity that is either self-supplied or supplied under an exemption from the requirement for an electricity supplier licence under the Electricity Act 1989.

4.2 Paragraphs 24B(3) and 24D of Schedule 6 (as inserted by the Finance Act 2013 (c. 29)) provide that the Commissioners may make regulations to determine whether a deemed self-supply of CPS rate commodities has been made for the purposes of paragraph 24B(2) and to determine the quantity of any commodity which is the subject of such a deemed supply.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 CHP stations are a class of technology that enables the efficient use of fuel by producing both electricity and heat in a usable form from the same input of fuel. Where the energy efficiency and environmental performance of the combined production of heat and electricity meet or exceed certain thresholds set and certified by the Department of Energy and Climate Change under its CHP Quality Assurance Standard, the electricity generated is deemed to be good quality.

7.2 Natural gas, liquid petroleum gas and solid fossil fuels used in electricity generation in Great Britain are liable to the CPS rates of CCL, part of the carbon price floor (CPF) introduced throughout Great Britain in April 2013. For CCL purposes, a self-supply is deemed to occur when these CPS rate commodities are used to generate electricity in a CHP station that has a generating capacity of more than 2 megawatts, with the operator of the CHP station being required to pay the relevant CPS rate of CCL on that supply. The operator of a CHP station is deemed to have made a taxable self-supply to himself where these commodities are determined to be referable to the production of electricity, rather than to heat, steam or mechanical power.

7.3 The effect of current CCL legislation is, therefore, that all taxable commodities used in a CHP station to produce heat, steam or mechanical power are excluded from the CPS rates. Budget 2014 announced that this exclusion would be extended to CPS rate commodities used in a CHP station to generate good quality electricity consumed on-site. This mitigates the impact of the CPS rates of CCL on this carbon efficient form of heat and electricity generation and provides further support for UK manufacturing industry.

7.4 This instrument amends the principal regulations so that, with effect from 1 April 2015, the formula in Schedule 3 determines the quantity of CPS rate commodities that are used in a CHP station to generate electricity that is not good quality electricity used on-site. For the purposes of the compulsory review of the calculations required under the Schedule, the current formula for determining the quantity of CPS rate commodities referable to the production of electricity will continue to apply for the period 1 January 2015 to 31 March 2015 after the coming into force of these Regulations.

- ***Consolidation***

7.5 There is no present intention to consolidate the amendments that have been made to the principal regulations.

8. Consultation outcome

8.1 We published and consulted on the statutory instruments alongside the primary legislation for 8 weeks and no comments were received.

9. Guidance

9.1 Public notices on the CPF and CCL will be amended as appropriate.

10. Impact

10.1 There is no impact on charities or voluntary bodies and the impact on business is not expected to be significant. For those businesses that own or operate CHP stations and businesses that receive on-site electricity from them, this measure will provide a benefit.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note (TIIN) covering this instrument was published on 10 December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument is available on the Government website at https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins It remains an accurate summary of the impacts that apply to this instrument.

11. Regulating small business

11.1 The legislation applies to small businesses to the extent that they own or operate CHP stations.

11.2 No special approach has been taken to minimise the impact of the requirements on firms employing up to 20 people.

12. Monitoring & review

12.1 This measure will be kept under review through communication with affected taxpayer groups. The change will be monitored and reviewed as part of HMRC's normal assurance process.

13. Contact

Andy Jameson at HMRC Tel: 03000 586082 email: andy.jameson@hmrc.gsi.gov.uk can answer any queries regarding the instrument.