EXPLANATORY MEMORANDUM TO

THE HYDROCARBON OIL DUTIES (RELIEFS FOR ELECTRICITY GENERATION) (AMENDMENTS FOR CARBON PRICE SUPPORT) REGULATIONS 2015

2015 No. 943

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

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

2. Purpose of the instrument

2.1 These Regulations amend the Hydrocarbon Oil Duties (Reliefs for Electricity Generation) Regulations 2005 (S.I. 2005/3320) ("the principal Regulations").

2.2 The principal Regulations provide for a relief from excise duty for rebated oils and bioblends used to generate electricity ("input fuels"). Except in the case of a claim for relief for input fuels used to generate electricity in a generating station, or the outputs of a combined heat and power station, situated in Northern Ireland, the amount of relief is reduced by the carbon price support rates specified in Schedule 2 of the principal Regulations.

2.3 These Regulations amend the principal Regulations so that, in relation to input fuels used to generate the outputs of a combined heat and power station on or after 1st April 2015, the carbon price support rates specified in Schedule 2 only apply to input fuels that are referable to the production of non-qualifying electricity (see paragraph 4.2 below) .

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

Unfortunately, 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 Finance Act 2015 had received Royal Assent.

4. Legislative Context

4.1 Paragraph 24B of Schedule 6 to the Finance Act 2000 (c. 17) (as inserted by the Finance Act 2013 (c. 29)) provides for carbon price support (CPS) rates of climate change levy (CCL) to be charged on fossil fuels (other then oils) that are referable to the production of electricity in a combined heat and power (CHP) station situated in Great Britain. In relation to oils and bioblends, the CPS rates of fuel duty were introduced by

amending the principal Regulations to reduce the amount of relief that can be claimed under those Regulations.

4.2 The Finance Act 2015 (c.11) amended paragraph 24B of the Finance Act 2000 so that the CPS rates of CCL are only charged on fossil fuels used to generate "non-qualifying" electricity in a CHP station. "Non-qualifying" electricity is electricity to which sub-paragraph (2A) of paragraph 24B does not apply.

4.3 In relation to oils and bioblends, these Regulations amend the principal Regulations so that, in respect of electricity produced in a CHP station in Great Britain, the CPS rates of fuel duty only apply to oils and bioblends that are referable to the production of non-qualifying electricity.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to 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 efficiency of the combined production of heat and electricity exceeds certain thresholds the electricity generated is deemed to be good quality. The efficiency of CHP stations is monitored and certified by the CHP Quality Assurance (CHPQA) programme, operated by the Department of Energy and Climate Change.

7.2 Natural gas, liquid petroleum gas or solid fossil fuels used in electricity generation are liable to the CPS rates of CCL. For CCL purposes, a self-supply is deemed to occur when these commodities are burnt to generate electricity in a CHP that has a generating capacity of more than 2 megawatts, with the operator of the CHP being required to pay the relevant CPS rate of CCL on that supply.

7.3 Oils and bioblends used in electricity generation are liable to the CPS rates of fuel duty. Insofar as a CHP achieves the efficiency threshold set by the CHPQA, duty on fuel can be reclaimed.

7.4 The amount reclaimable is reduced by the relevant CPS rate to the extent that the fuel is used to generate electricity.

- **Consolidation**

7.5 There are currently no plans to consolidate the amendments 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 substantive comments were received.

9. Guidance

The Public Notice 175 (Motor and heating fuels – relief from Excise Duty: oils used to generate electricity), available on www.gov.uk will be revised to reflect the change.

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 10th December 2014 alongside draft clauses of the Finance Bill 2015 and this instrument and 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

The legislation applies to small business. To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to keep to a minimum any new regulatory requirements as part of this change.

12. Monitoring & review

Reviews of compliance with the practical application of the new regulations will form part of the compliance review programme of the Indirect Tax Directorate of HMRC.

13. Contact

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