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STATUTORY INSTRUMENTS

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**2014 No. 502**

**CLIMATE CHANGE**

**The CRC Energy Efficiency Scheme (Amendment) Order 2014**

<i>Made</i>	- - - -	<i>5th March 2014</i>
<i>Laid before Parliament</i>		<i>10th March 2014</i>
<i>Laid before the Scottish Parliament</i>		<i>10th March 2014</i>
<i>Laid before the National Assembly for Wales</i>		<i>10th March 2014</i>
<i>Laid before the Northern Ireland Assembly</i>		<i>10th March 2014</i>
<i>Coming into force</i>	- -	<i>1st April 2014</i>

At the Court at Buckingham Palace, the 5th day of March 2014

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State, the Scottish Ministers, the Welsh Ministers and the Department of the Environment of Northern Ireland, have in accordance with section 48 of and paragraph 10 of Schedule 3 to the Climate Change Act 2008<sup>(a)</sup>—

- (a) obtained and taken into account, the advice of the Committee on Climate Change in respect of this Order; and
- (b) consulted such persons likely to be affected by this Order as they considered appropriate,

Her Majesty, in exercise of the powers conferred by sections 44(1), 46(3), and 90(3)(a) of and Schedule 2 and paragraph 9 of Schedule 3 to the Climate Change Act 2008, is pleased, by and with the advice of Her Privy Council, to order as follows:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the CRC Energy Efficiency Scheme (Amendment) Order 2014 and comes into force on 1st April 2014.

(2) In this Order, “the principal Order” means the CRC Energy Efficiency Scheme Order 2013<sup>(b)</sup>.

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(a) 2008 c.27.  
(b) S.I. 2013/1119.

### **Amendment to article 3 of the principal Order**

2. In article 3 of the principal Order, after the definition of “maintained school” insert—
- ““metallurgical process” and “mineralogical process” have the meanings given by paragraph 29A of Schedule 1;”.

### **Time for applications**

3.—(1) In article 12 of the principal Order, for “article 27(2)” substitute “articles 26(2)(b) and 27(2)”.

(2) Article 26(2) of the principal Order is amended as follows—

- (a) at the end of sub-paragraph (a), delete “and”;
- (b) in sub-paragraph (b), for “the following year.” substitute “any year of a phase; and”; and
- (c) after sub-paragraph (b) insert—

“(c) A notifies the administrator that A agrees that B may apply for registration as a separate participant.”.

### **Undertakings**

4.—(1) In article 24(4) of the principal Order, for “in accordance with article 12”, substitute “on or before the last date for making an application for registration provided by article 12”.

(2) In article 25(3) of the principal Order, for “in accordance with article 12”, substitute “on or before the last date for making an application for registration provided by article 12”.

### **Failures in respect of annual reports**

5. In article 74(3) of the principal Order, for “more than 40 days after the due date” substitute “after the last working day of October after the end of the annual reporting year”.

### **Amendments to Schedule 1 to the principal Order**

6.—(1) Schedule 1 to the principal Order is amended as follows.

(2) In paragraph 1, for sub-paragraph (4)(b) substitute—

“(b) is connected to a distribution system of an electricity distributor within the meaning of—

- (i) in Great Britain, section 6 of the Electricity Act 1989(a); or
- (ii) in Northern Ireland, article 3 of the Electricity (Northern Ireland) Order 1992(b).”.

(3) For paragraph 4(2), substitute—

“(2) Sub-paragraph (1) does not apply to the extent that the electricity is used directly for—

- (a) the generation, transmission or distribution of electricity, or
- (b) the transport, supply or shipping of gas.”.

(4) In paragraph 14(3), after “paragraph 16(3)” insert “and (3A)”.

(5) In paragraph 15(3), after “paragraph 16(3)” insert “and (3A)”.

(6) In paragraph 16—

- (a) in sub-paragraph (2), for “sub-paragraph (3)” substitute “sub-paragraphs (3) and (3A)”;

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(a) 1989 c.29.

(b) S.I. 1992/231 (N.I.1).

(b) after sub-paragraph (3), insert—

“(3A) Sub-paragraph (2) does not apply where the unconsumed supply is consumed by B on the premises occupied by B to operate—

- (a) an EU ETS installation;
- (b) a CCA facility;
- (c) a metallurgical process; or
- (d) a mineralogical process.”.

(7) After paragraph 29 insert—

**“Metallurgical and mineralogical processes consumption**

**29A.**—(1) Subject to sub-paragraph (2), A is not supplied with electricity or gas to the extent that that supply is consumed by A for the purposes of operating a metallurgical process or a mineralogical process.

(2) A is supplied with electricity or gas where A decides that such a supply is not consumed for the purposes of operating a metallurgical process or a mineralogical process.

(3) A decision made under sub-paragraph (2)—

- (a) may be made in respect of a phase where such a decision is made on or before the date the participant submits its first annual report for that phase; and
- (b) must not be altered during that phase.

(4) “Metallurgical process” means—

- (a) any process falling within—
  - (i) Division 24 of NACE Rev 2, except a process falling within Group 24.46; or
  - (ii) Group 25.5 of NACE Rev 2, except a process involving sheet metal; or
- (b) the following processes falling within Group 25.6 of NACE Rev 2—
  - (i) plating, anodising, or other similar processing of metals;
  - (ii) heat treatment of metals; or
  - (iii) where carried out in conjunction with a process falling within paragraph (a), deburring, sandblasting, tumbling or cleaning of metals.

(5) In sub-paragraph (4), “NACE Rev 2” has the same meaning as it has in Article 1(1) of Regulation (EC) No 1893/2006 of the European Parliament and of the Council establishing the statistical classification of economic activities NACE Revision 2(a) and a reference to “Division” and “Group” is to those matters as set out in Annex 1 to the Regulation.

(6) “Mineralogical process” has the same meaning as it has in Article 2(4)(b) of Council Directive 2003/96/EC restructuring the Community framework for the taxation of energy products and electricity(b).”.

(8) In paragraph 32—

(a) for sub-paragraph (1)(a), substitute—

“(a) A generates electricity using a source of energy or technology specified in section 41(5) of the Energy Act 2008(c) and which was commissioned on or after 1st January 2008;” and

(b) for sub-paragraph (1)(b) substitute—

“(b) in respect of that generation A is eligible—

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(a) OJ No L 393, 30.12.06, p.1. Explanatory Notes to NACE Rev 2 have been published by the Statistical Office of the European Communities. The Explanatory Notes were last updated by Eurostat on 20 October 2009 and can be viewed at [http://epp.eurostat.ec.europa.eu/portal/page/portal/nace\\_rev2/documents/NACE\\_rev2\\_explanatory\\_notes\\_EN.pdf](http://epp.eurostat.ec.europa.eu/portal/page/portal/nace_rev2/documents/NACE_rev2_explanatory_notes_EN.pdf).

(b) OJ No L 283, 31.10.03, p.51.

(c) 2008 c.32.

- (i) to be issued with a ROC; or
- (ii) to receive a financial incentive made by virtue of a scheme under section 41 of the Energy Act 2008; and”.

(9) For paragraph 34 substitute—

“**34.** In paragraph 33 “relevant conversion factor” means—

- (a) a factor of zero emissions where A—
  - (i) is not prohibited from being given a ROC or a financial incentive described in sub-paragraph (1)(b) of paragraph 32 in respect of electricity generated using a source of energy or technology referred to in sub-paragraph (1)(a) of that paragraph; and
  - (ii) has not at any time received such a ROC or a financial incentive; and
- (b) in all other cases a factor listed—
  - (i) in version 2 of the document named “CRC Energy Efficiency Scheme Order: table of conversion factors 2013/14” published by the Department of Energy and Climate Change in January 2014 and made available at the website address <https://www.gov.uk/crc-energy-efficiency-scheme>(a); or
  - (ii) in any replacement or revision of the document described in sub-paragraph (b)(i) which is published and made available in the same way as that document.”.

#### **Amendments to Schedule 2 to the principal Order**

7. In paragraph 2 of Schedule 2 to the principal Order, after sub-paragraph (4)(e) insert—

- “(f) A local authority in England, within the meaning of section 579 of the Education Act 1996(b), in respect of every school maintained by the authority.”.

*Richard Tilbrook*  
Clerk of the Privy Council

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(a) A paper copy of this document is available from the CRC Team, Department of Energy and Climate Change. Area 1A, 3 Whitehall Place, London SW1A 2HH.

(b) 1996 c.56. Section 579 was amended by S.I. 2010/1158, article 3.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the CRC Energy Efficiency Scheme Order 2013 (S.I. 2013/1119) (“the principal Order”). This Order comes into force on 1st April 2014 so that the changes made operate from the beginning of the initial phase of the Scheme as defined in the principal Order.

Article 3 corrects the cross reference to exceptions to the date by which applications for registration must generally be made and extends the ability for undertakings which are part of a group to be a participant separate from the other members of the group.

Article 4 corrects cross references to the closing date for application for registration.

Article 5 amends the date (from 1st September to the last working day in October) on which certain penalties for failure to submit an annual return can apply.

Article 6 amends Schedule 1 to the principal Order including citing the relevant Northern Ireland Electricity Order. The amendments to paragraphs 14 to 16 of that Schedule apply to landlords of premises let to tenants who use those premises in the operation of an EU ETS installation, a CCA facility, a metallurgical process or a mineralogical process. The electricity or gas supplied by the landlord to the tenant for the operation of the installation, facility or process is not to be treated as a supply of energy to the landlord. Article 6 also inserts a new paragraph 29A such that a person may not be treated as supplied with electricity or gas where the supply is used to operate certain metallurgical or mineralogical processes as defined in that paragraph.

By article 7 an English local authority is not a public body for the purposes of the principal Order in respect of the schools which it maintains.

A regulatory impact assessment of the effect that this Order will have on the costs of business and the voluntary sector is available from the Climate Change Team, Department of Energy and Climate Change, 3 Whitehall Place, London, SW1A 2HH and is annexed to the Explanatory Memorandum which is available alongside this Order on the legislation.gov.uk website.