



STATUTORY INSTRUMENTS.

**S.I. No. 474 of 2010**

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ELECTRICITY REGULATION (AMENDMENT) (CARBON REVENUE  
LEVY) ACT 2010 REGULATIONS 2010

**(Prn. A10/1445)**

## ELECTRICITY REGULATION (AMENDMENT) (CARBON REVENUE LEVY) ACT 2010 REGULATIONS 2010

The Commission for Energy Regulation, in exercise of the powers conferred on it by section 40G of the Electricity Regulation Act 1999 (No. 23 of 1999), as inserted by the Electricity Regulation (Amendment) (Carbon Revenue Levy) Act 2010 (No. 13 of 2010), having taken into account the matters raised in the public consultation process carried out by the Commission, hereby makes the following regulations:

1. (1) These Regulations may be cited as the Electricity Regulation (Amendment) (Carbon Revenue Levy) Act 2010 Regulations 2010.

(2) These Regulations come into operation on 1st October 2010.

2. (1) In these Regulations, except where the context otherwise requires—

“Act” means the Electricity Regulation Act 1999 (No. 23 of 1999);

“electricity generator” means a person licensed under section 14(1)(a) of the Act to generate electricity and to which Part VIB of the Act applies;

“Regulations of 2004” means the European Communities (Greenhouse Gas Emissions Trading) Regulations 2004 (S.I. No. 437 of 2004);

“returns” means the returns made by electricity generators to the Commission under section 40G of the Act.

(2) In these Regulations—

(a) A word or expression that is used in this Regulation and is also used in the Act has, unless the contrary intention appears, the same meaning in this Regulation as it has in the Act.

(b) Any reference to an enactment shall be construed as a reference to that enactment as amended, adapted or extended by or under any subsequent enactment.

(c) A reference to a paragraph is a reference to a paragraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

3. For the purposes of section 40G(2)(a) of the Act, returns shall be submitted to the Commission—

*Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 5th October, 2010.*

- (1) on the form published by the Commission from time to time, and
  - (2) by electronic means to an electronic mail address furnished to the electricity generator by the Commission.
4. For the purposes of section 40G(2)(b) of the Act, all returns to the Commission will be certified, in the manner published by the Commission from time to time, by an officer duly authorised in writing by the electricity generator to certify returns by or on behalf of the electricity generator.
5. (1) For the purposes of section 40G(2)(c)(i) of the Act, the information to be contained in returns as to the total emissions referred to in subsection 40G(1)(a) of the Act shall be reported in accordance with the principles set out in Schedule 4 of the Regulations of 2004.
- (2) For the purposes of section 40G(2)(c)(ii) of the Act, the information to be contained in returns as to the portion of the total emissions referred to in subsection 40G(1)(b) of the Act shall be reported in accordance with the principles set out in Schedule 4 of the Regulations of 2004 and in accordance with the approved methodologies published by the Commission from time to time.
6. (1) For the purposes of section 40G(2)(d) of the Act, returns for levy periods occurring up to 31 December 2010 shall be verified by the Commission using fuel consumption data for the electricity generator, in the manner published by the Commission from time to time.
- (2) The Commission may appoint an independent auditor to verify any return made.
- (3) For the purposes of section 40G(2)(d) of the Act, from 1 January 2011 the following will apply:
- (a) Not later than 31 March of each calendar year the electricity generator shall submit to the Commission a copy of the report prepared pursuant to Regulation 14 of the Regulations of 2004.
  - (b) The Commission shall compare the returns made during each levy period of the preceding calendar year with the report submitted to the Commission under paragraph 3(a).
  - (c) The Commission shall notify all electricity generators of its findings as a result of the comparison undertaken under paragraph 3(b).
  - (d) Electricity generators may make representations to the Commission within 15 working days of receiving the notice referred to in paragraph 3(c) and the Commission shall have due regard for any representations made.
  - (e) The Commission shall make a final determination as to any over recovery or under recovery of the carbon revenue levy in the preceding calendar year in accordance with the methodologies published by the Commission from time to time.

- (f) Pursuant to the final determination made under paragraph 3(e), any over recovery or under recovery of the carbon revenue levy from an electricity generator in the calendar year ending 31 December 2011, shall be taken into account in the following levy period and the carbon revenue levy for the next levy period shall be adjusted to provide for any over recovery or under recovery of the levy in the preceding calendar year.
- (g) Any under recovery of the carbon revenue levy from an electricity generator in the calendar year ending 31 December 2012 shall be paid to the Commission no later than 15 working days after the receipt of the invoice from the Commission once a final determination has been made under paragraph 3(e).
- (h) Any over recovery of the carbon revenue levy from an electricity generator in the calendar year ending 31 December 2012 shall be reimbursed by the Commission to the electricity generator concerned as soon as practicable after the final determination has been made under paragraph 3(e).



GIVEN under the common seal of the Commission for Energy Regulation on 30 September 2010,

DERMOT NOLAN,  
Commissioner.

EUGENE COUGHLAN,  
Member of Staff of the Commission.

## EXPLANATORY MEMORANDUM

*(This note is not a part of the Instrument and does not purport to be a legal interpretation.)*

The Commission for Energy Regulation, in exercise of the powers conferred on it under section 40G(2) of the Electricity Regulation Act 1999 (No. 23 of 1999), as amended by Electricity Regulation (Amendment) (Carbon Revenue Levy) Act 2010 (No. 13 of 2010), having taken into account the matters raised in the public consultation process carried out by the Commission, has made regulations to prescribe the form of returns, the certification of returns, information to be contained in returns relating to verification of emissions and to provide for an annual reconciliation of returns.

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