

2011 No. 1025

CLIMATE CHANGE LEVY

**The Climate Change Levy (Suspension of Transport Exemption)
Order 2011**

<i>Made</i> - - - -	<i>31st March 2011</i>
<i>Laid before the House of Commons</i>	<i>31st March 2011</i>
<i>Coming into force</i> - -	<i>1st April 2011</i>

The Treasury make the following Order pursuant to section 1(1) and (2) of the Provisional Collection of Taxes Act 1968(a) and a resolution passed by the House of Commons on 29th March 2011(b).

Citation and commencement

1. This Order may be cited as the Climate Change Levy (Suspension of Transport Exemption) Order 2011 and comes into force on 1st April 2011.

Suspension of exemption for certain transport supplies

2. In Schedule 6 to the Finance Act 2000(c) (climate change levy), paragraph 12 (exemption: supply used in transport) does not apply in relation to any supply of a taxable commodity(d) which—

- (a) is made on or after 1st April 2011, and
- (b) is within article 3.

3. A supply of a taxable commodity is within this article if the commodity is to be burned (or, in the case of electricity, consumed) in order to propel a train, or in a railway vehicle, while the train or vehicle is being used for, or for purposes connected with—

- (a) the transporting of goods by means of services operated exclusively or primarily for that purpose, or
- (b) the transporting of passengers by means of open access services.

(a) 1968 c. 2. Section 1 applies to climate change levy by virtue of an amendment made by paragraph 1 of Schedule 7 to the Finance Act 2000 (c. 17).

(b) Budget resolution number 47, recorded in the House of Commons Votes and Proceedings for 29th March 2011. The resolution contains a declaration that it is expedient in the public interest that the resolution should have statutory effect under the provisions of the Provisional Collection of Taxes Act 1968. Section 1(3) to (5) of that Act sets out the circumstances in which the resolution will cease to have statutory effect. By virtue of section 1(5), the resolution will cease to have effect once provisions corresponding to those in the resolution are enacted in the Finance Act 2011. The resolution will in any case cease to have effect on 5th August 2011 by virtue of section 1(3). Relevant amendments to section 1(3) to (5) were made by section 60 of the Finance Act 1968 (c. 44), section 205(5) of the Finance Act 1993 (c. 34), section 50(1) of the Finance (No. 2) Act 1997 (c. 58), and section 112(1) of the Finance Act 2007 (c. 11).

(c) 2000 c. 17.

(d) Defined in paragraph 3 of Schedule 6 to the Finance Act 2000.

4. For the purposes of article 3—

“railway vehicle” and “train” have the meaning given by section 83 of the Railways Act 1993^(a);

“open access service” means a railway service which is provided otherwise than under—

- (a) a franchise agreement, within the meaning given by section 23 of the Railways Act 1993, or
- (b) any other public service contract, within the meaning of Regulation (EC) No 1370/2007 of the European Parliament and of the Council^(b),

and is not a heritage railway service;

“heritage railway service” means a service which—

- (a) is operated to preserve, recreate or simulate railway services of the past, and
- (b) is used exclusively or primarily for tourist, educational or recreational purposes.

5. The reference in article 2 to the time at which a supply of a taxable commodity is made is to be read as a reference to the time at which the taxable commodity is actually supplied.

*Michael Fabricant
Angela Watkinson*

31st March 2011

Two of the Lords Commissioners for Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

Articles 2 and 3 suspend the exemption from climate change levy provided for in paragraph 12 of Schedule 6 to the Finance Act 2000 (exemption: supply used in transport), for taxable commodities burned or consumed in relation to open access passenger rail services and rail freight services. These services are defined in article 4.

The Order is made in exercise of a power contained in resolution number 47, passed by the House of Commons on 29th March 2011 following the Budget held on 23rd March. The resolution has temporary statutory effect by virtue of section 1 of the Provisional Collection of Taxes Act 1968. It provides that the Treasury may by order provide that paragraph 12 of Schedule 6 to the Finance Act 2000 does not apply in relation to any supply of a taxable commodity which is made on or after 1st April 2011 and is of a description specified in the order.

The provisions of the resolution correspond to provisions contained in clause 79 of Finance (No. 3) Bill 2011, as published by the House of Commons on 31st March 2011. Assuming that the clause is not rejected during the passage of the Bill through Parliament, those provisions will come into force when the Bill receives Royal Assent, and the Order made under the resolution will continue to have statutory effect by virtue of those provisions of the Act arising from the Bill.

A Tax Information and Impact Note covering this instrument was published at Budget on 23rd March 2011 and is available on the HMRC website at www.hmrc.gov.uk/budget2011/tiin6840.

(a) 1993 c. 43.

(b) OJ No L315, 3.12.07, p 1.