

EXPLANATORY MEMORANDUM TO
GREENHOUSE GAS EMISSIONS TRADING SCHEME CHARGING
SCHEME REGULATIONS (NORTHERN IRELAND) 2010

2010 No. 151

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department of the Environment (“the Department”) to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under the powers conferred by Article 4 of the Environment (Northern Ireland) Order and is subject to the negative resolution procedure.

2. Purpose

- 2.1 To allow the Department to make a Northern Ireland charging scheme for the cost of regulating the EU Emissions Trading Scheme.

3. Background

- 3.1 The Greenhouse Gas Emissions Trading Scheme Regulations 2005 (“the 2005 Regulations”) provides the framework for a UK wide greenhouse gas emissions trading scheme for the purpose of implementing Directive 2003/87/EC of the European Parliament and the Council establishing a scheme for greenhouse gas emission trading within the Community and amending Council Directive 96/61/EC (the Emissions Trading Directive).
- 3.2 In Northern Ireland the regulation of the EU Emissions Trading Scheme is the responsibility of the Northern Ireland Environment Agency and the Chief Inspector, as the regulator for Northern Ireland, may charge for the costs of regulating the scheme under regulation 18 and Schedule 5 of the 2005 Regulations.
- 3.3 Regulation 18(3) of the 2005 Regulations provides for the provisions of Schedule 5 (fees and charges) to be superseded by the provisions of a charging scheme made under section 41 of the Environment Act 1995 in respect of installations situated in England, Wales or Scotland. The 1995 Act does not extend to Northern Ireland and no alternative provision was made in the 2005 Regulations for Schedule 5 to be superseded by a Northern Ireland charging scheme. A provision has now been inserted in Regulation 18(3) by the Environment (Northern Ireland) Order (Amendment) Regulations 2010 to provide for Schedule 5 to be superseded by a Northern Ireland charging scheme under

regulations made under Article 4 of the Environment (Northern Ireland) Order 2002.

4. Detail

- 4.1 Regulation 2 is the interpretation provision.
- 4.2 Regulation 3 confirms the functions conferred by these regulations on the enforcing authority shall be the functions of the chief inspector.
- 4.3 Regulation 4 (1) makes provision for the making of a scheme.
- 4.4 Regulation 4(2) sets out the purposes for which fees and charges are payable in respect of greenhouse gas emissions permits under such a scheme. Those are-
- an application for a permit;
 - an application for the variation of a permit;
 - an application for transfer of a permit;
 - an application for surrender of a permit;
 - subsistence of a permit;
 - an application for the allocation of allowances;
 - an application for the retention of allowances by an operator ceasing to carry on an activity to which they relate;
 - revocation of a permit, and,
 - subsistence of a registry account.
- 4.5 Regulation 4(3) makes provision for the times at which and the manner in which the payments required by the scheme are to be made and the making of appropriate incidental, supplementary and transitional provisions.
- 4.6 Regulation 4(4) makes provision for the Department, so far as practicable, to secure that the fees and charges payable under such a scheme are sufficient to cover the expenditure incurred by the enforcing authority.

5. Consultation

- 5.1 The draft regulations were subjected to a 12 week public consultation directed in the main to businesses and organisations that require greenhouse gas emissions permits to carry out the activities specified in Schedule 1 to the 2005 Regulations but also local councils, government departments, other government organisations and all statutory consultees.
- 5.2 No adverse comments were received.

6. Equality Impact

- 6.1 The Department has carried out an equality screening exercise on the draft regulations. No adverse impacts for any of the nine section 75 categories were identified. A full Equality Impact Assessment was therefore not required.

7. Regulatory Impact

- 7.1 The Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) do not introduce a policy change as affected businesses are currently paying fees and charges, as a requirement of the 2005 Regulations. Nevertheless a partial Regulatory Impact Assessment (RIA) was prepared which indicated limited impact in Northern Ireland.
- 7.2 The RIA did not attract any comment from the Consultation.

8. Financial Implications

- 8.1 There will be no financial implications for the Department.

9. Section 24 of the Northern Ireland Act 1998

- 9.1 The Human Rights Impact Assessment carried out concluded that the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) do not breach any of the rights in the European Convention on Human Rights. They are fully compatible with European Community Law. They do not discriminate against any person or class of person on the grounds of religious belief or political opinion.

10. EU Implications

- 10.1 Not applicable.

11. Parity or Replicatory Measure

- 11.1 The Greenhouse Gas Emissions Trading Scheme Regulations (Northern Ireland) will provide the framework for the making of a charging scheme to enable the Northern Ireland Environment Agency to recover its costs for regulating the EU Emissions Trading Scheme. This will bring Northern Ireland into line with the rest of the United Kingdom

12. Additional Information

- 12.1 N/A