EXECUTIVE NOTE

THE CARBON ACCOUNTING SCHEME (SCOTLAND) REGULATIONS 2010

SSI 2010 216

1. The above instrument will, if approved, be made by the Scottish Ministers in exercise of the powers conferred by sections 13, 20 and 96 of the Climate Change (Scotland) Act 2009 (the "Act"). The instrument is subject to the draft affirmative procedure.

Purpose of the instrument

2. The purpose of this instrument is to set up a scheme for carbon accounting which will be used to monitor compliance with the targets for reducing greenhouse gas emissions introduced by the Climate Change (Annual Targets) (Scotland) Order 2010. Arrangements for opening an account in which to place and keep track of carbon units used by the Scottish Ministers are established in this instrument, as are the circumstances in which such units may be credited and then cancelled.

3. This instrument makes provision for the circumstances in which carbon units may be credited to the net Scottish emissions account (NSEA). The carbon units referred to include both those used by participants in the EU Emissions Trading Scheme (ETS) and carbon units which may be used as credits by the Scottish Ministers.

4. Carbon units which may be counted as credits for the purposes of calculating the NSEA are specified in this instrument. The units specified in the regulations are internationally recognised and are monitored and tracked under United Nations and European Union rules. The units are subject to significant scrutiny and are accepted as representing genuine and verifiable emissions reductions.

5. Regulation 7(4) of this instrument ensures that carbon units used by Ministers are no longer available for offsetting emissions made elsewhere, as required by the Act.

6. The limits on the use of credits by the Scottish Ministers are established in an accompanying instrument - the Climate Change (Limit on Carbon Units) (Scotland) Order 2010.

7. To be able to determine whether the net amount of ETS trading in Scotland is positive or negative in a year will depend on whether or not greater or fewer units are used than the allocation for ETS participants in Scotland. The allocation established in this instrument for the years 2010-2012 is based upon the advice of the UK Committee on Climate Change (UKCCC).

8. If an individual participant exceeds their allowance, then they will need to purchase units ("credits") to cover those additional emissions. Conversely, if their emissions are lower than the allocation, then participants may sell units ("debits") to other ETS participants.

9. In the event of ETS allowances being sold by scheme participants, the NSEA total will be increased by the amount of the ETS allocation that has been sold. This recognises the fact that these allowances are used by the purchaser, or sold on again, to enable emissions to be made elsewhere in the EU.

10. Provision is made for the Scottish Ministers to delegate the functions placed on them in this instrument to the Scottish Environment Protection Agency (SEPA).

11. This instrument forms part of an implementation package, to be laid before Parliament alongside other instruments made pursuant to the Act. Separate Executive Notes have been prepared in relation to them.

Consultation

12. There is no statutory obligation to consult on this Order. However, in line with section 5 of the Act, the Scottish Ministers requested the advice of the UKCCC as to the levels at which to set the annual allocation of ETS units for this Order. The UKCCC's advice was published on 24 February 2010, and is available at the following address - http://www.theccc.org.uk/reports/scottish-report.

Regulatory Impact Assessment

6. A Regulatory Impact Assessment is not required as the instrument will not, in itself, impose new regulatory burdens on businesses, charities or the voluntary sector. The policies and proposals to achieve the emissions reductions will be identified in the statutory Report on Proposals and Policies, to be laid in draft before the Scottish Parliament in September 2010. The individual measures, or related groups of measures, detailed in the Report on Proposals and Policies will be subject to Regulatory Impact Assessment as appropriate.

7. A Regulatory Impact Assessment was carried out for the Climate Change (Scotland) Bill. The final Assessment was published in May 2009, and is available at the following address – http://www.scotland.gov.uk/Publications/2009/05/01155216/0

Financial Effects

13. The financial effect of this Order is limited to the use of carbon units as credits by Ministers. The Climate Change (Limit On Carbon Units) (Scotland) Order 2010 sets a zero limit on the use of carbon credits by Ministers in the period 2010-2012, therefore the financial effects of this Order are anticipated to be negligible.

Review

14. There will be a need to revise this Order to take account of developments in the operation of EU ETS anticipated from 2013 forward.

Contact

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