
DRAFT STATUTORY INSTRUMENTS

2012 No.

**The CRC Energy Efficiency Scheme (Allocation
of Allowances for Payment) Regulations 2012**

PART 3

GENERAL

Fees

8.—(1) The Environment Agency may require the payment by an account holder who requests the allocation of allowances of a fee of an amount determined by reference to the costs of allocating the allowances.

(2) Where the Environment Agency requires the payment of such a fee in relation to an allocation, the Environment Agency must, prior to the allocation, give notice of the amount of the fee to the account holder who has requested the allocation of allowances.

(3) Where an account holder has not paid, in full, a fee notified under this regulation, any outstanding amount is recoverable as a civil debt by the Environment Agency.

Payments

9.—(1) Payments under these Regulations must be made into a bank account nominated—

- (a) for allowances, by the Secretary of State, and
- (b) for fees, by the Environment Agency.

(2) Payments under these Regulations must be made—

- (a) by electronic transfer from an account with a credit institution,
- (b) accompanied by information which identifies the account holder making the payment, and
- (c) in sterling.

(3) Payment is deemed to have been made for allowances when the Secretary of State receives cleared funds.

(4) Payment is deemed to have been made for fees when the Environment Agency receives cleared funds.

(5) In this regulation “credit institution” means—

- (a) an institution which has permission under Part 4 of the Financial Services and Markets Act 2000⁽¹⁾ to carry on the regulated activity of accepting deposits and persons authorised to carry on similar activities under the law of a country other than the United Kingdom, or
- (b) an electronic money institution as defined by article 2 of Directive [2009/110/EC](#) of the European Parliament and of the Council on the taking up, pursuit and prudential

(1) 2000 c.8.

supervision of the business of electronic money institutions amending Directives [2005/60/EC](#) and [2006/48/EC](#) and repealing Directive [2000/46/EC](#)(2).

Issue of allowances

10.—(1) On receipt by the Secretary of State of payment for allowances, the Environment Agency must, as soon as reasonably practicable, issue the number of allowances to the account holder's compliance account.

(2) Where payment is received by the Secretary of State in accordance with regulation 7(2) but the Environment Agency has not allocated the allowances before the end of the primary allocation period, the Environment Agency must, as soon as reasonably practicable, issue the allowances during the following secondary allocation period.

Issue of excess allowances

11.—(1) Where it comes to the notice of the Environment Agency that it has issued to an account holder allowances in excess of the number of allowances which have been validly requested and paid for, as soon as reasonably practicable the Environment Agency must—

- (a) cancel the excess allowances, and
- (b) notify the account holder that the allowances have been cancelled.

(2) The provisions of paragraph (1) do not apply in the event that an account holder sells or otherwise deals in any excess allowances.

(3) In the event that an account holder sells or otherwise deals in any excess allowances the Environment Agency—

- (a) must not cancel the excess allowances, and
- (b) may require that account holder to pay £12 multiplied by the number of excess allowances.

(4) If payment required under paragraph (3) is not received in full by such date as is specified by the Environment Agency, any outstanding amount is payable by the participant on demand by the Environment Agency and each member of a group is jointly and severally liable to comply with such a demand.

(5) Any outstanding amount under regulation 11(4) is recoverable as a civil debt by the Environment Agency.

Financial provision

12.—(1) Except for any sums received by the Environment Agency by way of fees pursuant to regulation 8, any sums received by the Environment Agency under or by virtue of these Regulations shall be paid to the Secretary of State.

(2) Any sums received by the Secretary of State under or by virtue of these Regulations shall be paid into the Consolidated Fund.

Notices

13.—(1) Any notice to be given under these Regulations by the Environment Agency may be in such form as the Environment Agency thinks fit and may be included as part of any other notice or communication by the Environment Agency to the person in question.

- (2) A notice or document may be served on, or given to, a person by—
 - (a) delivering it to that person in person,

(2) O.J. No.L.267, 10.10.2009, p.7.

- (b) leaving it at that person's proper address,
 - (c) sending it by post or electronic means to that person's proper address, or
 - (d) in the case of an account holder, using such facilities as are provided by the Registry.
- (3) For the purpose of sub-paragraph (2)(c), a person's proper address may be taken as—
- (a) that person's principal place of business in the United Kingdom,
 - (b) an email address provided to the Environment Agency,
 - (c) in the case of a body corporate, the registered or principal office of that body, and
 - (d) in the case of a partnership, or a partner or person having control or management of the partnership business, the principal office of the partnership.
- (4) For the purpose of sub-paragraph (3)(c), the principal office of a company registered outside the United Kingdom or of a partnership established outside the United Kingdom is their principal office in the United Kingdom.
- (5) In the case of a body corporate a notice or document may be served on, or given to one of the persons listed in sub-paragraph (6) by means of the service of that notice, or the giving of that document, to those persons in accordance with contact details provided to the Environment Agency.
- (6) The persons referred to in paragraph (5) are as follows—
- (a) the secretary or clerk of that body, or
 - (b) where that body corporate is an account holder, a director, or
 - (c) where the body corporate is not a company and the account holder is a participant, a person of equivalent status to a director of a body corporate, who is responsible for compliance with the scheme, or
 - (d) an officer or employee who has authority to deal with the Environment Agency on behalf of the account holder on a day-to-day basis.
- (7) In the case of a partnership, a notice or document may be served on, or given to—
- (a) a partner or a person having control or management of the partnership business, or
 - (b) where that partnership is an account holder, any partner or employee who has authority to deal with the Environment Agency on behalf of the account holder on a day-to-day basis.
- (8) In the case of any other person, a notice or document may be served on, or given to—
- (a) any person of equivalent status to a secretary or clerk of a body corporate, or
 - (b) where that person is a participant, an officer or employee who has authority to deal with the Environment Agency on behalf of the account holder on a day-to-day basis.
- (9) Where a notice or document is served, or given, using electronic communications, the service is deemed to be effected, and the notice or document received, by addressing and transmitting the electronic communication.
- (10) Where a participant is a group and the administrator gives any communication to the public body or undertaking who is the account holder, that communication is deemed to be made to each member of the group.