

SCHEDULES

SCHEDULE 2

TRADING SCHEMES

PART 1

SCHEMES LIMITING ACTIVITIES

Introductory

- 1 This Part of this Schedule deals with trading schemes that operate by limiting or encouraging the limitation of activities that consist of the emission of greenhouse gas or that cause or contribute, directly or indirectly, to such emissions.

Trading periods

- 2 The regulations must specify the period or periods by reference to which the scheme is to operate (a “trading period”).

Activities

- 3 (1) The regulations must identify the activities to which the trading scheme applies.
- (2) The regulations may identify the activities by reference to any, or any combination of, criteria and in particular—
- (a) may identify the activities by reference to the locations or locations at which they are carried on, or
 - (b) may be expressed to apply to all activities of a particular kind carried on in the United Kingdom or a part of the United Kingdom.
- (3) The regulations must specify the units of measurement of the activities for the purposes of the scheme.
- (4) The regulations may specify units of measurement by reference to—
- (a) the activities themselves,
 - (b) anything consumed or used for the purposes of the activities,
 - (c) anything produced by the activities, or
 - (d) any other consequence of the activities.
- (5) The regulations may, in particular, make provision—
- (a) for activities to be measured by reference to the amount (in tonnes of carbon dioxide equivalent) of the greenhouse gas emissions for which those activities are to be regarded as responsible; and
 - (b) as to the method by which that amount is to be measured or calculated.

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- (6) The regulations may make different provision in relation to different descriptions of activity to which the scheme applies.

Participants

- 4 (1) The regulations must identify the persons to whom the trading scheme applies (the “participants”).
- (2) The regulations—
- (a) may identify the participants by reference to any, or any combination of, criteria, or
 - (b) provide for their identification by a specified person or body.
- (3) The regulations may, in particular, identify or provide for the identification of the participants by reference to their responsibility for activities to which the trading scheme applies.
- (4) The regulations may provide for more than one person to be treated as a single participant.
- (5) The regulations may provide for persons to cease to be participants in circumstances specified in the regulations.

Allocation of allowances

- 5 (1) The regulations may provide for the allocation among the participants of allowances representing the right to carry on a specified amount of the activities in a trading period.
- (2) The regulations may set a limit on—
- (a) the total amount of the activities for a trading period, and
 - (b) the total amount of the allowances to be allocated for the period.
- (3) The regulations may specify the method of allocation or provide for it to be determined in accordance with the regulations.
- (4) The regulations may not provide for allowances to be allocated in return for consideration.

Use of allowances

- 6 (1) The regulations may require each participant to have or acquire enough allowances to match the participant’s activities in a trading period, subject to any offsetting in accordance with provision made under paragraph 7.
- (2) The regulations—
- (a) may permit allowances held by a participant at the end of a trading period in excess of the participant’s activities in the period to be used to cover the participant’s activities in a later trading period,
 - (b) may permit allowances allocated to a participant for a trading period to be used to cover the participant’s activities in an earlier trading period, and
 - (c) may in either case provide for such use of allowances to be subject to such conditions and limitations as may be specified in or determined in accordance with the regulations.

- (3) The regulations must contain provision for ensuring that allowances used by a participant for the purposes of a trading scheme cannot be used by the participant for any other purpose.
- (4) The regulations—
 - (a) may provide for the expiry of allowances after such period as may be specified in or determined in accordance with the regulations;
 - (b) may enable allowances to be cancelled by a person by whom they are held instead of being used for the purposes of a trading scheme.

Credits

- 7 (1) The regulations may enable participants to offset the carrying on of the activities in a trading period by acquiring credits representing—
 - (a) a reduction in an amount of greenhouse gas emissions, or
 - (b) the removal of an amount of greenhouse gas from the atmosphere.
- (2) Regulations that make provision under this paragraph for a trading period must set a limit on the total amount of the activities for the period.
- (3) If the regulations also provide for the allocation of allowances for the period, they must—
 - (a) set a limit on the total amount of the allowances to be allocated for the period, and
 - (b) require each participant to acquire enough credits to offset any activities carried on by the participant in the period in excess of those for which the participant has or has acquired allowances.
- (4) Otherwise, such regulations must—
 - (a) set a limit on the amount of the activities that each participant may carry on in the period, and
 - (b) require each participant to acquire enough credits to offset any activities carried on by the participant in the period in excess of that limit.
- (5) The regulations must specify—
 - (a) the descriptions of credits that may be used for offsetting a participant's activities,
 - (b) the value of different descriptions of credit as regards the amount of the activities they are treated as offsetting, and
 - (c) the circumstances in which credits of any description may be used for the purposes of the trading scheme.
- (6) The regulations—
 - (a) must contain provision for ensuring that credits used to offset activities under a trading scheme cannot be used by the participant for any other purpose;
 - (b) may enable credits to be cancelled by a person by whom they are held instead of being used for that purpose.

Payments

- 8 (1) The regulations may provide that a participant who does not have or acquire enough allowances or credits to match or offset the participant's activities in a trading period

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must pay an amount specified in or determined in accordance with the regulations within the period so specified.

- (2) The regulations may require the payment to be made to—
 - (a) the administrator, or
 - (b) such other person as the regulations may specify.
- (3) The provision that may be made about the amount of the payment includes, in particular, provision—
 - (a) for the amount to be determined by the administrator or a national authority;
 - (b) in a case where the payment is not made within the period specified in the regulations, for the amount to increase at the rate so specified until payment;
 - (c) for the amount of the payment, or of any amount by reference to which it is to be calculated, to be adjusted from time to time by reference to inflation or some other factor.
- (4) Provision within sub-paragraph (3)(c) may refer, in particular, to an index or data specified in the regulations (including as modified from time to time after the regulations come into force).
- (5) If the regulations provide for payments to be made to a person other than a national authority, they must provide for that person to pay the sums received to the national authority or authorities specified in or determined in accordance with the regulations.

Trading

- 9 (1) The regulations must provide for the participants in a trading scheme to trade in any allowances or credits under the scheme.
- (2) The regulations may also provide for trading in the allowances or credits by third parties authorised in accordance with the regulations.
- (3) The regulations must specify the circumstances in which trading is permitted.
- (4) The regulations may require trading to be notified to the administrator of the trading scheme.

Permits

- 10 (1) The regulations may provide that participants may only carry on activities to which the trading scheme applies, or specified activities to which the scheme applies, if they hold a permit.
- (2) The regulations may make provision about the issue, variation, transfer, surrender and revocation of permits.
- (3) The regulations may provide for conditions to be attached to permits.
- (4) References in this Schedule to the requirements of the scheme include requirements imposed by conditions attached to a permit.

Units under other schemes

- 11 (1) The regulations may make provision for recognising any of the following as equivalent to allowances or credits under the trading scheme—

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- (a) allowances, credits or certificates under another trading scheme for which provision is made by regulations under this Part of this Act;
 - (b) units under any other trading scheme (at United Kingdom, European or international level) relating to greenhouse gas emissions.
- (2) The regulations may provide—
- (a) for determining the value for the purposes of the scheme of any such allowances, credits, certificates or units, and
 - (b) for the use for the purposes of the scheme of any such allowances, credits, certificates or units to be subject to such conditions and limitations as may be specified in or determined in accordance with the regulations.