
STATUTORY INSTRUMENTS

2005 No. 925

**The Greenhouse Gas Emissions
Trading Scheme Regulations 2005**

PART 2

GREENHOUSE GAS EMISSIONS PERMITS

Requirement for greenhouse gas emissions permit to carry out Schedule 1 activities

7. No person shall carry out a Schedule 1 activity resulting in specified emissions, except under and to the extent authorised by a greenhouse gas emissions permit.

Applications for greenhouse gas emissions permits

8.—(1) An application for a greenhouse gas emissions permit shall be made to the regulator in accordance with this regulation and shall, except where the application relates to an offshore installation, be accompanied by the fee prescribed in respect of the application in Schedule 5.

(2) An application under paragraph (1) shall contain the following information—

- (a) the name of the applicant, his telephone number and postal address (including post code) and, if different, any address to which correspondence relating to the application should be sent and, if the applicant is a body corporate, its registered number, the postal address of its registered or principal office and, if that body corporate is a subsidiary of a holding company (within the meaning of section 736 of the Companies Act 1985⁽¹⁾ or, in relation to Northern Ireland, article 4 of the Companies (Northern Ireland) Order 1986⁽²⁾), the name of the ultimate holding company and the postal address of its principal office;
- (b) the postal address of the site of the installation and its national grid reference (or for offshore installations equivalent information identifying the installation and its location), a description of that site and the location of the installation on that site, and, for installations other than offshore installations, the name of any local authority in whose area the site is situated;
- (c) a description of the installation and the Schedule 1 activities to be carried out in the installation including a description of the technology used;
- (d) the raw and auxiliary materials used in carrying out Schedule 1 activities in the installation, the use of which is likely to lead to specified emissions;
- (e) the sources of specified emissions from the Schedule 1 activities carried out in the installation;
- (f) a description of the measures which are planned to monitor and report specified emissions in accordance with the Monitoring and Reporting Decision;

(1) 1985 c. 6; section 736 was substituted by section 144(1) of the Companies Act 1989 (1989 c. 40).

(2) S.I. 1986/1032 (N.I.6), amended by S.I. 1990/1504 (N.I.10); there is other amending legislation but none of it is relevant.

- (g) a description, including the reference number, of any environmental licence issued in relation to the installation;
 - (h) any additional information which the applicant wishes the regulator to take into account in considering the application; and
 - (i) a non-technical summary of the information referred to in sub-paragraphs (c) to (h).
- (3) For the purpose of paragraph (2)(g), “environmental licence” means—
- (a) an authorisation under Part I of the Environmental Protection Act 1990⁽³⁾ or the Industrial Pollution Control (Northern Ireland) Order 1997⁽⁴⁾; or
 - (b) a permit granted under—
 - (i) the Pollution Prevention and Control (England and Wales) Regulations 2000⁽⁵⁾;
 - (ii) the Pollution Prevention and Control (Scotland) Regulations 2000⁽⁶⁾;
 - (iii) the Offshore Regulations; or
 - (iv) the Northern Ireland Regulations.
- (4) Where an application is for a greenhouse gas emissions permit to operate more than one installation the application shall contain the information required by paragraph (2) in relation to each installation.
- (5) The regulator may, by notice to the applicant, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining the application and if the applicant fails to furnish the specified information within the period specified, the application shall, if the regulator gives notice to the applicant that it treats the application as having been withdrawn, be deemed to have been withdrawn at the end of that period.

Determination of applications and grant of greenhouse gas emissions permits

9.—(1) The regulator shall give notice of its determination of an application for a greenhouse gas emissions permit within a period of two months beginning on the date on which it received the application or within such longer period as may be agreed in writing with the applicant.

(2) For the purpose of calculating the period of two months mentioned in paragraph (1) no account shall be taken of any period beginning with the date on which notice is served on the applicant under regulation 8(5) and ending on the date on which the applicant furnishes the information specified in the notice.

(3) If a regulator fails to give notice of its determination of an application for a greenhouse gas emissions permit within the period allowed by or under paragraph (1), the application shall, if the applicant notifies the regulator that he treats the application as having been refused, be deemed to have been refused at the end of that period.

(4) Subject to paragraph (6), where an application is duly made to the regulator, the regulator shall either grant the greenhouse gas emissions permit subject to the conditions required or authorised to be imposed by regulation 10 or refuse the application.

- (5) Where a regulator grants a greenhouse gas emissions permit—
 - (a) in relation to an offshore installation; or
 - (b) in response to an application for a greenhouse gas emissions permit which was made before the date on which these Regulations enter into force,

(3) 1990 c. 43.

(4) S.I. 1997/2777 (N.I.18), to which there are amendments not relevant to these Regulations.

(5) S.I. 2000/1973, relevant amending instruments are S.I. 2002/1559, S.I. 2003/3311; there are other amending instruments but none is relevant.

(6) S.S.I. 2000/323, relevant amending instruments are S.S.I. 2003/146, 2003/170, 2003/235, 2004/26 and 2005/101 and S.I. 2003/3311.

the fee prescribed in Schedule 5 in respect of the grant of the permit shall be payable within a period of 28 days beginning on the date on which the regulator serves a notice on the operator requesting payment of the fee.

- (6) A greenhouse gas emissions permit shall not be granted if the regulator—
 - (a) considers that the applicant will not be the operator of the installation concerned after the grant of the permit; or
 - (b) is not satisfied that the applicant will ensure that the installation is operated so as to comply with the monitoring and reporting conditions which would be included in the permit.
- (7) A greenhouse gas emissions permit may authorise the operation of more than one installation on the same site operated by the same operator but may not otherwise authorise the operation of more than one installation.
- (8) A greenhouse gas emissions permit authorising the operation of an installation shall include—
 - (a) the name and postal address of the operator and, if different, any address to which correspondence should be sent;
 - (b) the postal address of the site of the installation and its national grid reference (or for offshore installations equivalent information identifying the installation and its location);
 - (c) a description of the site and the location of the installation on that site; and
 - (d) a description of the installation, the Schedule 1 activities to be carried out in the installation and the specified emissions from those activities.
- (9) Where—
 - (a) the provisions of a greenhouse gas emissions permit have been varied under regulation 14 or by a retention notice or affected by a partial transfer under regulation 15; or
 - (b) there is more than one greenhouse gas emissions permit applying to installations on the same site operated by the same operator,

the regulator may replace the permit with a consolidated permit applying to the same Schedule 1 activities and subject to the same conditions as the permit being replaced.

Conditions of greenhouse gas emissions permits

10.—(1) There shall be included in a greenhouse gas emissions permit such conditions as the regulator considers appropriate and in particular such conditions as the regulator considers appropriate to comply with paragraphs (2) to (6).

(2) A greenhouse gas emissions permit shall include conditions concerning the monitoring and reporting of specified emissions from the installation to which it relates and, in particular—

- (a) conditions to ensure that any specified emissions from the Schedule 1 activity to which it relates are monitored and reported in accordance with the Monitoring and Reporting Decision, including conditions—
 - (i) specifying the monitoring methodology and frequency; and
 - (ii) requiring the operator to submit reports of the annual reportable emissions to the regulator and concerning the timing of such reports;
- (b) a requirement that all reports submitted pursuant to conditions imposed under subparagraph (ii) are verified in accordance with the criteria set out in Annex V of the Directive and that the regulator is informed of the results of any such verification; and
- (c) a requirement that an operator notifies the regulator as soon as he becomes aware of any factor which might prevent him from complying with any of the conditions included in a greenhouse gas emissions permit pursuant to this paragraph.

(3) A greenhouse gas emissions permit shall contain conditions to ensure that the operator surrenders allowances equal to the annual reportable emissions from the installation within four months of the end of the scheme year during which those emissions arose.

(4) A greenhouse gas emissions permit shall provide that for the purpose of assessing compliance with a condition imposed pursuant to paragraph (3) in relation to a recovery year, the annual reportable emissions from the installation in that year shall be deemed to be increased by an amount equal to the amount of annual reportable emissions in respect of which the operator failed to comply with that condition in the non-compliance year.

(5) For the purposes of paragraph (4)—

- (a) “a non-compliance year” shall be a scheme year in respect of which an operator fails to comply with a condition of the permit imposed pursuant to paragraph (3); and
- (b) “the recovery year” shall be the scheme year following the non-compliance year, or where the non-compliance results from an error in the report submitted by an operator under a monitoring and reporting condition, the scheme year in which the error is discovered.

(6) A greenhouse gas emissions permit shall contain a condition stating that in relation to any period for which the installation is an excluded installation (the “exclusion period”)—

- (a) the operator shall be deemed to be in compliance with any conditions imposed pursuant to paragraphs (2) and (3); and
- (b) the operator shall be required to notify the regulator of any change in operation during the exclusion period, at least 2 months before the end of that exclusion period or within 10 days of the revocation of a certificate served under regulation 11(6) (except in relation to a part of the installation in respect of which a new certificate is issued in accordance with regulation 11(11)(b)).

(7) Subject to paragraph (8), where an operator makes a change in operation to an excluded installation, the greenhouse gas emissions permit which relates to that installation shall, for the duration of the period for which the installation is an excluded installation, be deemed to authorise the change in operation.

(8) Paragraph (7) shall not prevent an operator from making an application under regulation 14(2) for a variation of the provisions of a greenhouse gas emissions permit which relates to an excluded installation.

(9) Regulators shall periodically review the conditions of greenhouse gas emissions permits and may do so at any time.

Excluded installations

11.—(1) Where the European Commission has provided for the temporary exclusion of an installation under Article 27(2) of the Directive, the operator of the installation may apply to the responsible authority for a certificate stating that the installation is an excluded installation.

(2) The Secretary of State shall, within 7 days beginning on the date of a notification by the European Commission of a decision under Article 27(2) of the Directive providing for the temporary exclusion of an installation or of the publication of the decision in the Official Journal of the European Union, whichever is the earlier, publish or, as the case may be, further publish the decision in such manner as she considers appropriate.

(3) Subject to paragraph (4), an application under paragraph (1) shall be made before the expiry of the period of two months beginning with the date on which the Secretary of State publishes or, as the case may be, further publishes a European Commission decision in accordance with paragraph (2), whichever is the later.

(4) A responsible authority may accept an application after the date by which an application is required to be made under paragraph (3).

- (5) An application under paragraph (1) shall—
- (a) identify the installation in question;
 - (b) contain the name and postal address of the operator and, if different, any address to which correspondence should be sent;
 - (c) contain a copy of the greenhouse gas emissions permit relating to the installation identified in sub-paragraph (a);
 - (d) identify the regulator which granted that permit; and
 - (e) identify the national policy by virtue of which the European Commission has provided for the temporary exclusion of the installation.
- (6) Where an application is duly made, the responsible authority shall serve on the regulator and the operator a certificate which shall—
- (a) identify the installation;
 - (b) identify the operator and the regulator of that installation;
 - (c) state the date from which the installation is excluded and the duration of the exclusion and identify any period for which it is deemed to be excluded in accordance with paragraph (7); and
 - (d) specify any conditions applying to the exclusion.
- (7) Where a decision of the European Commission under Article 27(2) of the Directive provides for an installation to be temporarily excluded from a date prior to the date of that decision, the certificate served under paragraph (6) in respect of that installation may provide that for the purposes of compliance with any conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(2) or (3) the installation shall be treated as if it were an excluded installation from the date provided for in the decision of the European Commission.
- (8) Where an application for a certificate under paragraph (1) relates to an installation in respect of which an allocation for the first scheme phase has been made under regulation 21(1)(b), or if applicable (1)(c), or under regulation 22(13)(b) or (18) the responsible authority, shall before serving a certificate under paragraph (6) take such steps as are necessary to ensure that—
- (a) no allowances will be issued in respect of the installation to which the application relates in respect of any whole scheme year for which the European Commission has provided for the installation to be excluded;
 - (b) the amount of allowances to be issued in respect of the installation to which the application relates in respect of any scheme year in which the European Commission provides for the installation to be excluded for only part of the year shall be reduced in proportion to the part of the year to which the exclusion relates; and
 - (c) the total quantity of allowances to be issued in the scheme phase is reduced by the number of allowances which will not be issued in accordance with sub-paragraph (a) and (b).
- (9) Where an operator fails to comply with the conditions referred to in paragraph (6)(d), the responsible authority may serve a notice on the operator and the regulator revoking the certificate served under paragraph (6).
- (10) Where the regulator effects a transfer or partial transfer under regulation 15 of a greenhouse gas emissions permit which relates to an excluded installation, the regulator shall notify the responsible authority of the transfer or partial transfer and provide a copy of the updated permit and any new permit granted which relates to that installation.
- (11) Where the regulator notifies the responsible authority in accordance with paragraph (10)—
- (a) in the case of a transfer of the whole greenhouse gas emissions permit, if the responsible authority is satisfied that the installation will continue to be covered by the national policy

identified in the application under paragraph (1), the responsible authority shall serve a notice on the operator and regulator including a copy of the certificate served under paragraph (6) and specifying the change of operator;

- (b) in the case of a partial transfer, the responsible authority shall revoke the certificate served under paragraph (6) and if the responsible authority is satisfied that any part of the installation will continue to be covered by the national policy identified in the application under paragraph (1), the responsible authority shall serve on the operator and the regulator of that part a certificate under paragraph (6) in relation to that part;
- (c) in any other case, the responsible authority shall serve a notice on the operator and the regulator revoking the certificate served under paragraph (6).

(12) For the purposes of this regulation, the “responsible authority” means, subject to paragraph (13), the person who is responsible for the national policy by virtue of which the European Commission has provided for the temporary exclusion of the installation.

(13) If there is doubt as to who is responsible for a particular national policy, the Secretary of State shall decide who is to be considered to be responsible for the policy for the purposes of this regulation.

Proposed change in operation

12.—(1) Subject to paragraph (4), where an operator of an installation who holds a greenhouse gas emissions permit in respect of the Schedule 1 activities carried out in the installation proposes to make a change in operation the operator shall, at least 14 days before making the change, notify the regulator.

(2) A notification under paragraph (1) shall be in writing and shall contain a description of the proposed change in operation including a brief explanation of whether and, if so, why it—

- (a) affects any information included in the greenhouse gas emissions permit pursuant to regulation 9(8)(d); or
- (b) might require any monitoring and reporting condition to be amended.

(3) A regulator shall, by notice served on the operator, acknowledge receipt of any notification received under paragraph (1).

(4) Paragraph (1) shall not apply where—

- (a) a change in operation is to be made more than 2 months before the end of the period for which the installation to which the change relates is an excluded installation; or
- (b) the operator applies under regulation 14(2) for the variation of the conditions of his greenhouse gas emissions permit before making the proposed change in operation and the application contains a description of that change.

Commencement of a Schedule 1 activity

13.—(1) Before the latest of—

- (a) 1st April in each year;
- (b) the expiry of a period of 14 days beginning on the date of the grant of a greenhouse gas emissions permit under regulation 9(1); or
- (c) the expiry of a period of 14 days beginning with the date on which these Regulations enter into force,

the operator of an installation in respect of which a greenhouse gas emissions permit has been granted but which has not been put into operation may notify the regulator that it does not intend to put the

installation into operation on or before 31st March in the following year (“the notified non-operation year”).

(2) Where an operator which has notified the regulator under paragraph (1) puts the installation into operation in a notified non-operation year, it shall notify the regulator that the installation has been put into operation before the expiry of a period of 14 days beginning on the day on which the installation is put into operation.

Variation of provisions of greenhouse gas emissions permits

14.—(1) The regulator may at any time vary any provision of a greenhouse gas emissions permit (including the extent to which the permit authorises a Schedule 1 activity) and shall do so if it appears to the regulator at that time, whether as a result of a review under regulation 10(9) or otherwise, that regulation 9(8) or 10 requires provisions to be included in the permit which are different from the subsisting provisions.

(2) An operator of an installation who holds a greenhouse gas emissions permit in respect of the Schedule 1 activity carried out in that installation may apply to the regulator for the variation of the provisions of his permit.

(3) An application under paragraph (2) shall be made in accordance with paragraph (5) and shall, subject to paragraph (4), be accompanied by the fee prescribed in respect of the application in Schedule 5.

(4) Where an application under paragraph (2) relates to an offshore installation, the fee prescribed in Schedule 5 in respect of the application shall be payable within the period of 28 days beginning on the date on which the regulator serves a notice on the operator requesting payment of the fee.

(5) An application under paragraph (2) shall contain the following information—

- (a) the name of the operator, his telephone number and postal address (including post code) and, if different, the address to which correspondence should be sent;
- (b) the postal address of the site of the installation to which the greenhouse gas emissions permit relates and its national grid reference (or, for offshore installations, equivalent information identifying the installation and its location);
- (c) if relevant, a description of the proposed change in operation requiring the variation and a statement of any change as respects the matters dealt with in regulation 8(2)(c) to (f) which would result if the proposed change in operation were made;
- (d) an indication of the variations of the provisions of the greenhouse gas emissions permit which the operator wishes the regulator to make; and
- (e) any additional information which the operator wishes the regulator to take into account in considering his application.

(6) The regulator may, by notice to the operator, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining the application; and if the operator fails to furnish the specified information within the period specified in the notice, the application shall, if the regulator gives notice to the operator that it treats the application as having been withdrawn, be deemed to have been withdrawn at the end of that period.

(7) Where an application is duly made to the regulator under paragraph (2), the regulator shall determine whether to vary the provisions of the greenhouse gas emissions permit and shall give notice of its determination within two months beginning with the day on which the regulator received the application or within such longer period as may be agreed in writing with the operator.

(8) For the purpose of calculating the periods mentioned in paragraph (7) no account shall be taken of any period beginning with the date on which notice is served on an operator under paragraph (6) and ending on the date on which the operator furnishes the information specified in the notice.

(9) Where the regulator decides to vary the provisions of the greenhouse gas emissions permit, whether on an application under paragraph (2) or otherwise, it shall serve a notice on the operator (a “variation notice”) specifying the variations of the provisions of the permit and the date or dates on which the variations are to take effect and, unless the notice is withdrawn, the variations specified in the notice shall take effect on the date or dates so specified.

(10) A variation notice served under paragraph (9) shall, unless served for the purpose of determining an application under paragraph (2), require the operator to pay, within such period as may be specified in the notice, the fee prescribed in respect of the variation notice in Schedule 5.

(11) Where the regulator decides on an application under paragraph (2) not to vary the provisions of the greenhouse gas emissions permit, it shall give notice of its decision to the operator.

(12) If the regulator fails to give notice of its determination of an application under paragraph (2) within the period allowed by or under paragraphs (7) and (8), the application shall, if the operator notifies the regulator that he treats the application as having been refused, be deemed to have been refused at the end of that period.

Transfer of greenhouse gas emissions permits

15.—(1) Subject to paragraph (2), where the operator of an installation wishes to transfer, in whole or in part, his greenhouse gas emissions permit to another person (“the proposed transferee”) the operator and the proposed transferee shall jointly make an application to the regulator to effect the transfer.

(2) A greenhouse gas emission permit which relates to an installation in which a Schedule 1 activity is no longer carried out may not be transferred.

(3) An application under paragraph (1) shall, subject to paragraph (5), be accompanied by the fee prescribed in respect of the transfer in Schedule 5 and shall contain the following information—

- (a) the operator’s and the proposed transferee’s telephone number and postal address and, if different, any address to which correspondence relating to the application should be sent; and
- (b) the postal address of the site of the installation to which the greenhouse gas emissions permit relates and its national grid reference (or, for offshore installations, equivalent information identifying the installation and its location).

(4) Where the operator wishes to transfer only part of his greenhouse gas emissions permit (a “partial transfer”), an application under paragraph (1) shall—

- (a) identify the Schedule 1 activity or part of a Schedule 1 activity to which the transfer applies (the “transferred activity”);
- (b) identify the installation in which that transferred activity is carried out (the “transferred unit”);
- (c) where an application for an allocation of allowances from the new entrant reserve has been made under regulation 22(1) in respect of the installation to which the permit relates and either—

- (i) the regulator has not determined the application in accordance with regulation 22(13); or
- (ii) the number of allowances allocated under regulation 22(13)(b) or (18) is less than the number of allowances determined under regulation 22(13)(a),

specify whether the application under regulation 22(1) relates to the transferred unit; and

- (d) where the installation to which the permit relates is included in a pool in accordance with regulation 27, specify whether the installation, or in the case of a partial transfer, the transferred unit, should continue to be included in the pool.
- (5) Where an application under paragraph (1) relates to an offshore installation, the fee prescribed in Schedule 5 in respect of the application shall be payable within the period of 28 days beginning on the date on which the regulator serves a notice on the operator requesting payment of the fee.
- (6) The regulator shall effect the transfer unless the regulator considers that—
 - (a) the proposed transferee will not be the operator of the transferred unit after the transfer is effected; or
 - (b) the proposed transferee will not ensure that the installation is operated so as to comply with any monitoring and reporting condition.
- (7) The regulator shall effect a transfer under this regulation by—
 - (a) in the case of a partial transfer—
 - (i) issuing a new greenhouse gas emissions permit to the proposed transferee which—
 - (aa) applies to the transferred activity;
 - (bb) identifies the transferred unit; and
 - (cc) includes the conditions required by paragraph (8); and
 - (ii) reissuing the original greenhouse gas emissions permit to the operator, updated to record the transfer and varied to—
 - (aa) identify the Schedule 1 activity to be carried out in the installation after the transfer and the specified emissions from that activity;
 - (bb) describe the installation after the transfer; and
 - (cc) specify the conditions applying after the transfer as required by paragraph (8);
 - (b) in the case of a transfer of the whole greenhouse gas emissions permit, reissuing to the operator and the proposed transferee the permit updated to include the name and other particulars of the proposed transferee as the operator of the transferred unit,and the transfer shall take effect from such date as may be agreed with the applicants and specified in the updated greenhouse gas emissions permit and, in the case of a partial transfer, the new greenhouse gas emissions permit.
- (8) In the case of a partial transfer effected under this regulation, the conditions included in the new greenhouse gas emissions permit and the original greenhouse gas emissions permit after the transfer shall be the same as the conditions included in the original permit immediately before the transfer in so far as they are relevant, respectively, to any installation to which the new permit relates or the original permit continues to relate but subject to such variations as, in the opinion of the regulator, are necessary to take account of the transfer.
- (9) If within the period of two months beginning with the date on which the regulator receives an application under paragraph (1), or within such longer period as the regulator and the applicants may agree in writing, the regulator has neither effected the transfer nor given notice to the applicants that it has rejected the application, the application shall, if the applicants notify the regulator in writing that they are treating the application as having been refused, be deemed to have been refused at the end of that period or that longer period, as the case may be.
- (10) The regulator may, by notice, require the operator or the proposed transferee to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining an application under this regulation.
- (11) Where a notice is served on an operator or proposed transferee under paragraph (10)–

- (a) for the purpose of calculating the period of two months mentioned in paragraph (9), no account shall be taken of the period beginning with the date on which the notice is served and ending on the date on which the information specified in the notice is furnished; and
- (b) if the specified information is not furnished within the period specified, the application shall, if the regulator gives notice to the operator and proposed transferee that it treats the application as having been withdrawn, be deemed to have been withdrawn at the end of that period.

(12) Where a regulator effects the transfer of a greenhouse gas emissions permit in accordance with paragraph (7)(b), the regulator shall notify the registry administrator of the transfer.

Applications to surrender a greenhouse gas emissions permit

16.—(1) Where an operator has ceased carrying out in an installation all of the Schedule 1 activities authorised by a greenhouse gas emissions permit in relation to that installation, the operator shall apply to the regulator to surrender the permit.

(2) An application under paragraph (1) shall be made before the expiry of a period of one month beginning on the date on which the operator ceased to carry out the activity or activities in the installation to which the greenhouse gas emissions permit relates or by the date of entry into force of approved NAP regulations in relation to the first scheme phase, whichever is the later.

(3) Paragraph (1) shall not apply where—

- (a) an approved national allocation plan provides for all allowances allocated under these Regulations in respect of any installation in which a Schedule 1 activity is no longer carried out to continue to be issued to the operator of such installation during the scheme phase to which the approved national allocation plan relates; or
- (b) an approved national allocation plan provides that, if conditions specified in that plan are met, an operator which ceases to carry out a Schedule 1 activity in an installation may retain the allowances, or a proportion of those allowances, allocated in respect of the installation under these Regulations and the operator has, before the expiry of a period of one month beginning on the date on which the operator ceased to carry out the Schedule 1 activities or of the date on which the approved NAP Regulations in relation to the scheme phase for which the allowances are allocated enter into force, whichever is the later, made an application to retain its allocation or a proportion of its allocation under regulation 24(1).

(4) An application under paragraph (1) shall, subject to paragraph (5), be accompanied by the fee prescribed in respect of the application in Schedule 5, and shall contain the operator's telephone number and postal address and, if different, any address to which correspondence relating to the application should be sent.

(5) Where an application under paragraph (1) relates to an offshore installation, the fee prescribed in Schedule 5 in respect of the application shall be payable within the period of 28 days beginning on the date on which the regulator serves a notice on the operator requesting payment of the fee.

(6) Where an application is duly made under paragraph (1), the regulator shall within two months give the operator and, where the surrender relates to an installation included in a pool in accordance with regulation 27, the appropriate authority, notice of the surrender of its greenhouse gas emissions permit ("a notice of surrender") and the notice shall take effect, subject to regulation 32(10), on the date specified in the notice.

(7) A notice of surrender of the permit shall require the operator, in relation to the scheme year in which the notice of surrender takes effect, to—

- (a) except where a notice of surrender relates to an excluded installation which was an excluded installation for the whole of the scheme year up to the date on which the notice is served, submit to the regulator by the date specified in the notice a report specifying

the reportable emissions from the beginning of the scheme year in which the notice of surrender is served until the date on which the notice of surrender is served (excluding any period for which the installation was an excluded installation) and to ensure that such report is verified in accordance with the relevant monitoring and reporting conditions; and

- (b) by the date specified in the notice surrender allowances equal to—
- (i) the reportable emissions specified in a report referred to in sub-paragraph (a);
 - (ii) where an operator has failed to comply with a condition of a greenhouse gas emissions permit imposed pursuant to regulation 10(3) in respect of the last scheme year for which the date for surrendering allowances in accordance with that condition has passed, the annual reportable emissions in respect of which the operator failed to comply with that condition in that year;
 - (iii) where a notice of surrender is served in a scheme year in which an error in the report submitted by an operator under a monitoring and reporting condition in relation to any earlier scheme year has been discovered, the annual reportable emissions in respect of which, as a result of that error, the operator failed to comply with the condition of a greenhouse gas emissions permit imposed pursuant to regulation 10(3) in respect of the scheme year to which the error relates;
 - (iv) where a supplementary decision has been made under regulation 25(2) or (7), the total number of allowances which on the date on which the notice of surrender is served have been issued in respect of the installation which would not have been issued if the statement referred to in regulation 25(1)(a) or 25(7)(a) had not been false or misleading; and
 - (v) where an operator has failed to comply with paragraph (1), the total number of allowances which on the date on which the notice of surrender is served have been issued in respect of the installation which would not have been issued if the operator had complied with paragraph 16(1).

(8) The report referred to in paragraph (7)(a) shall be prepared and verified in accordance with the monitoring and reporting conditions in the greenhouse gas emissions permit to which the application to surrender relates.

(9) From the date on which the notice of surrender takes effect, the greenhouse gas emissions permit shall cease to have effect to authorise the carrying out of a Schedule 1 activity but any conditions of the permit shall continue to have effect so far as they are not superseded by the requirements of the notice pursuant to paragraph (7) until the regulator certifies either that the requirements of paragraph (7) and any conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) have been complied with or that there is no reasonable prospect of further allowances being surrendered by the operator in respect of the installation to which the notice relates.

(10) From the scheme year following the scheme year in which the notice of surrender takes effect, for the purposes of assessing compliance with a condition of the permit imposed pursuant to regulation 10(3), the reportable emissions of the installation, before any increase in accordance with regulation 10(4), shall be deemed to be zero.

(11) Except where paragraph (12) applies, where the regulator certifies in accordance with paragraph (9) that there is no reasonable prospect of further allowances being surrendered by the operator it shall notify the registry administrator.

(12) Where the regulator certifies in accordance with paragraph (9) that there is no reasonable prospect of further allowances being surrendered by the operator because the operator holding account has been closed in accordance with Article 17(1) of the Registries Regulation, regulation 39 shall apply as if the failure to surrender sufficient allowances to comply with any conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) in a previous scheme year

prior to the date on which the operator holding account is closed, were a further failure to comply with a condition imposed pursuant to regulation 10(3).

(13) The requirements specified in a notice of surrender pursuant to paragraph (7)(a) shall be treated as if they were monitoring and reporting conditions.

(14) The requirements specified in a notice of surrender pursuant to paragraph (7)(b) shall be treated as if they were conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) and the number of allowances required to be surrendered by the notice of surrender were the annual reportable emissions of the installation in respect of the scheme year to which the notice relates.

(15) Where an installation fails to comply with the requirements of a notice of surrender included pursuant to paragraph (7), the regulator shall notify the registry administrator.

(16) The regulator may, by notice to the operator, require him to furnish such further information specified in the notice, within the period so specified, as the regulator may require for the purpose of determining an application under this regulation.

(17) Where a notice is served on an operator under paragraph (16) for the purpose of calculating the period of two months mentioned in paragraph (6), no account shall be taken of the period beginning with the date on which the notice is served and ending on the date on which the information specified in the notice is furnished.

Revocation of greenhouse gas emissions permits

17.—(1) Subject to paragraph (3), the regulator may at any time revoke a greenhouse gas emissions permit by serving a notice (“a revocation notice”) on the operator and where the revocation relates to an installation included in a pool in accordance with regulation 27, on the appropriate authority.

(2) Without prejudice to the generality of paragraph (1) the regulator shall serve a notice under paragraph (1) where an operator fails to comply with an obligation under regulation 16(1).

(3) Where an approved national allocation plan provides for allowances allocated in respect of an installation in which a Schedule 1 activity is no longer carried out to continue to be issued during the scheme phase to which the approved national allocation plan relates, the regulator shall not revoke the greenhouse gas emissions permit which relates to that installation until after 28th February in the last scheme year in that scheme phase.

(4) A revocation notice shall specify the date on which the notice shall, subject to regulation 32(10), take effect, which shall be at least 28 days after the date on which the notice is served.

(5) A revocation notice shall specify that the operator is, in relation to the scheme year in which the revocation takes effect, required to—

- (a) except where a revocation notice relates to an excluded installation which was an excluded installation for the whole of the scheme year up to the date on which the notice is served, submit to the regulator by the date specified in the notice a report specifying the reportable emissions from the beginning of the scheme year in which the revocation notice is served until the date on which the revocation notice is served on the operator and to ensure that such report is verified in accordance with the relevant monitoring and reporting conditions; and
- (b) by the date specified in the notice surrender allowances equal to—
 - (i) the reportable emissions specified in a report referred to in sub-paragraph (a);
 - (ii) where an operator has failed to comply with a condition of a greenhouse gas emissions permit imposed pursuant to regulation 10(3) in respect of the last scheme

year for which the date for surrendering allowances in accordance with that condition has passed, the annual reportable emissions in respect of which the operator failed to comply with that condition in that year;

- (iii) where a revocation notice is served in a scheme year in which an error in the report submitted by an operator under a monitoring and reporting condition in relation to any earlier scheme year has been discovered, the annual reportable emissions in respect of which, as a result of that error, the operator failed to comply with the condition of a greenhouse gas emissions permit imposed pursuant to regulation 10(3) in respect of the scheme year to which the error relates;
- (iv) where a supplementary decision has been made under regulation 25(2) or (7), the total number of allowances which on the date on which the revocation notice is served have been issued in respect of the installation which would not have been issued if the statement referred to in regulation 25(1)(a) or 25(7)(a) had not been false or misleading; and
- (v) where the notice is served in accordance with paragraph (2), the total number of allowances which on the date on which the notice is served have been issued in respect of the installation which would not have been issued if the operator had complied with regulation 16(1).

(6) Where a revocation notice is served in accordance with paragraph (2), regulation 24(11) or regulation 25(3), the revocation notice shall require the operator to pay, within such period as may be specified in the notice, the fee prescribed in respect of a revocation notice in Schedule 5.

(7) From the date on which the revocation notice takes effect, the greenhouse gas emissions permit shall cease to have effect to authorise the carrying out of a Schedule 1 activity and to require the monitoring and reporting of emissions but the conditions of the permit shall continue to have effect in so far as they are not superseded by the requirements of the notice specified pursuant to paragraph (5) until the regulator certifies that either the requirements of the notice specified pursuant to paragraph (5) and any conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) have been complied with, or that there is no reasonable prospect of further allowances being surrendered by the operator in respect of the installation to which the notice relates.

(8) From the scheme year following the scheme year in which the revocation notice takes effect, for the purposes of assessing compliance with a condition of the permit imposed pursuant to regulation 10(3), the reportable emissions of the installation, before any increase in accordance with regulation 10(4), shall be deemed to be zero.

(9) Except where paragraph (10) applies, where the regulator certifies in accordance with paragraph (7) that there is no reasonable prospect of further allowances being surrendered by the operator it shall notify the registry administrator.

(10) Where the regulator certifies in accordance with paragraph (7) that there is no reasonable prospect of further allowances being surrendered by the operator because the operator holding account has been closed in accordance with Article 17(1) of the Registries Regulation, regulation 39 shall apply as if the failure to surrender sufficient allowances to comply with any conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) in a previous scheme year prior to the date on which the operator holding account is closed, were a further failure to comply with a condition imposed pursuant to regulation 10(3).

(11) The requirements specified in a revocation notice pursuant to paragraph (5)(a) shall be treated as if they were monitoring and reporting conditions.

(12) The requirements specified in a revocation notice pursuant to paragraph (5)(b) shall be treated as if they were conditions of the greenhouse gas emissions permit imposed pursuant to regulation 10(3) and the number of allowances required to be surrendered were the annual reportable emissions of the installation in respect of the scheme year to which the notice relates.

(13) Where an installation fails to comply with the requirements of a revocation notice included pursuant to paragraph (5), the regulator shall notify the registry administrator.

(14) A regulator which has served a revocation notice may, before the date on which the revocation takes effect, withdraw the notice.

Fees and charges

18.—(1) An operator which holds a greenhouse gas emissions permit shall pay a charge for the subsistence of such permit in accordance with Schedule 5.

(2) If an operator has failed to pay a charge referred to in paragraph (1), the regulator may revoke the greenhouse gas emissions permit under regulation 17(1).

(3) The provisions of Schedule 5 shall apply until such time as they are superseded by the provisions of a charging scheme made—

(a) in respect of installations (other than offshore installations) situated in England, Wales or Scotland, under section 41 of the 1995 Act; or

(b) in respect of offshore installations, under regulation 19.

(4) A charging scheme made under section 41 of the 1995 Act which supersedes the provisions of Schedule 5, or any such scheme made under regulation 19, shall specify which of those provisions it supersedes.

(5) Where a fee or charge prescribed in Schedule 5 is superseded in accordance with paragraph (3), a reference to a fee or charge prescribed in Schedule 5 shall be read as a reference to a fee or charge prescribed in a charging scheme which supersedes that fee or charge.

Charging scheme for offshore installations

19.—(1) The Secretary of State may make, and from time to time revise, a scheme prescribing—

(a) fees payable in respect of, or of applications for, a greenhouse gas emissions permit for an offshore installation;

(b) fees payable in respect of, or of applications for, the variation, transfer and surrender of such permits; and

(c) charges payable in respect of the subsistence of such permits.

(2) The fees and charges prescribed in a scheme under paragraph (1) shall be paid to the Secretary of State.

(3) The Secretary of State shall, on making or revising a scheme under paragraph (1), lay a copy of the scheme or of the revisions made to the scheme or, if she considers it more appropriate, the scheme as revised, before each House of Parliament.

(4) A scheme under paragraph (1) may, in particular—

(a) make different provision for different cases, including different provision in relation to different persons in different circumstances or localities;

(b) allow for reduced fees or charges payable in respect of greenhouse gas emissions permits granted to the same operator;

(c) provide for the times at which and the manner in which the payments required by the scheme are to be made (subject to the requirements in these Regulations as to times at which payment is required); and

(d) make such incidental, supplementary and transitional provisions as appears to the Secretary of State to be appropriate.

(5) The Secretary of State shall take such steps as she considers appropriate for bringing the provisions of any charging scheme made by her which is for the time being in force to the attention of persons likely to be affected by it.

(6) In this regulation “prescribed” means specified in, or determined under, a scheme made under this regulation.