
STATUTORY INSTRUMENTS

2008 No. 1825

The Community Emissions Trading Scheme (Allocation of Allowances for Payment) Regulations 2008

PART 2

AUCTIONS

Persons who may conduct auctions

3. The Treasury may—

- (a) conduct auctions to allocate allowances, or
- (b) appoint the Secretary of State, the Scottish Ministers, the Welsh Ministers or the Department of the Environment in Northern Ireland, or any other person, or any of them acting jointly, to conduct auctions to allocate allowances, subject to conditions (including as to fees charged) and limitations as the Treasury see fit.

Deposits

4.—(1) The person conducting an auction—

- (a) may require an account holder to pay a deposit into a nominated bank account on account of payment for allowances,
- (b) may retain a deposit as payment for allowances allocated, and
- (c) must repay to an account holder any part of a deposit not used to satisfy payment for allowances as soon as reasonably practicable after the close of the bidding window.

(2) In paragraph (1) “bidding window” means such period as is specified in the Scheme during which an account holder may submit a bid in an auction for the allocation of an allowance.

Payment

5.—(1) An account holder to whom allowances are allocated at an auction must pay, by the settlement date, the total amount due for payment for the allowances allocated.

(2) Payment must be made—

- (a) into a nominated bank account,
- (b) in sterling or euros, as determined in accordance with the Scheme.

(3) In paragraph (1) “total amount due” means the amount notified to the account holder by the person conducting the auction.

Transfer of allowances

6.—(1) On receipt of payment in full from an account holder for the allocation of allowances, the person conducting an auction must provide to the Environment Agency such information as is necessary to effect the transfer referred to in paragraph (2).

(2) As soon as reasonably practicable following receipt of the information referred to in paragraph (1), the Environment Agency must transfer from the Party holding account to the nominated holding account of each account holder the number of allowances which are allocated to that account holder at auction.

Allocation following review

7.—(1) If, following an auction, an account holder requests a review under regulation 13 and the decision of the Treasury in respect of that review is to allocate allowances to an account holder, the account holder must pay the auction clearing price for those allowances.

(2) Payment must be made into a nominated bank account by the date specified by the Treasury.

(3) On receipt of payment in full from that account holder the person conducting the auction must provide to the Environment Agency such information as is necessary to effect the transfer referred to in paragraph (4).

(4) As soon as reasonably practicable on receipt of the information referred to in paragraph (3), the Environment Agency must transfer the number of allowances from the Party holding account to the account holder's nominated holding account as is specified by the Treasury in their decision under regulation 13.

(5) Where payment for allowances is not received into the nominated bank account from an account holder by the date specified under paragraph (2), any outstanding amount is payable by the account holder on demand, and the Treasury may—

- (a) require that account holder to pay interest for each day beginning with the settlement date and ending on the date on which payment is made, at the relevant interest rate, calculated on a daily basis, or
- (b) decide not to provide to the Environment Agency such information as is necessary to effect the transfer under paragraph (4).

(6) The Treasury must give an account holder notice of a decision under sub-paragraph (5)(b) as soon as reasonably practicable after making that decision.

Consequences of late or non-payment

8.—(1) Where payment for allowances is not received from an account holder by the settlement date, any outstanding amount is payable by the account holder on demand, and the person conducting an auction may—

- (a) require that account holder to pay interest for each day beginning with the settlement date and ending on the date on which payment is made at the relevant interest rate, calculated on a daily basis, or
- (b) decide not to provide to the Environment Agency such information as is necessary to effect the transfer under regulation 6(2).

(2) The person conducting an auction must give an account holder notice of a decision under sub-paragraph (1)(b) as soon as reasonably practicable after making that decision.

Transfer of excess allowances

9.—(1) If, following an auction, the Environment Agency transfers a number of allowances to a nominated holding account in excess of the number of allowances which should have been transferred to that account (“excess allowances”), when the transfer of excess allowances comes to the account holder’s notice, that account holder must, as soon as reasonably practicable—

- (a) give notice to the Environment Agency and to the person conducting the auction;
- (b) where the nominated holding account is administered by the Environment Agency, request that the Environment Agency transfers the excess allowances from that account to the Party holding account.

(2) When an excess transfer comes to the notice of the Environment Agency, whether by notification from an account holder under sub-paragraph (1)(a) or otherwise, and if—

- (a) the Environment Agency is not in receipt of a request under sub-paragraph (1)(b); and
- (b) the nominated holding account is administered by the Environment Agency,

then the Environment Agency must transfer the excess allowances from that account to the Party holding account as soon as reasonably practicable.

(3) In the event that an account holder sells or otherwise deals in the excess allowances or any interest in the excess allowances the person conducting the auction may require the account holder to pay—

- (a) the auction clearing price, or
- (b) if the auction clearing price is, in accordance with the Scheme, replaced by the reserve price, the reserve price,

in each case multiplied by the number of excess allowances transferred to the account holder.

(4) Payment required to be made under paragraph (3) must be made into the nominated bank account by the date specified by the person conducting the auction.

(5) If payment required under paragraph (3) is not received in full by the date specified by the person conducting the auction, any outstanding amount is payable by the account holder on demand.

(6) In paragraph (3), “reserve price” has the meaning given to it by the Scheme.