
STATUTORY INSTRUMENTS

2010 No. 1996

The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 and come into force on 31st August 2010.

Interpretation

2. In these Regulations—

“2009 Regulations” means the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2009⁽¹⁾;

“additional daily penalty” has the meaning given by regulation 30(1)(b);

“address” means, in relation to electronic communications, any number or address used for the purpose of such communication;

“aerodrome operator” has the meaning given by regulation 48(b);

“aircraft operator” has the meaning given by regulation 3;

“allowance” has the meaning given by Article 3 of the EU ETS Directive;

“appeal body” has the meaning given by regulation 52(9);

“area”, in relation to a regulator, means—

(a) in respect of the Environment Agency, England and Wales;

(b) in respect of the Scottish Environment Protection Agency, Scotland;

(c) in respect of the chief inspector, Northern Ireland;

“authority” has the meaning given by regulations 7 and 51(7);

“aviation activity” means the category of aviation activity listed in Annex I to the EU ETS Directive, but with the reference to 1st January 2012 omitted;

“aviation emissions” means emissions from an aviation activity;

“benchmarking plan” means a plan issued under—

(a) regulation 10(1)(a); or

(b) regulation 10(1)(a) of the 2009 Regulations;

“benchmarking year” means—

(1) [S.I. 2009/2301](#).

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) for the trading period 2013 to 2020, 2010; and
- (b) for subsequent trading periods of eight calendar years, the calendar year ending 24 months before the beginning of the period;

“chief inspector” means the chief inspector constituted under regulation 8(3) of the Northern Ireland Regulations;

“Commission list” means the list of operators set out in [Commission Regulation \(EC\) No 748/2009](#) on the list of aircraft operators which performed an aviation activity listed in Annex I to Directive [2003/87/EC](#) on or after 1 January 2006 specifying the administering Member State for each aircraft operator⁽²⁾, as amended from time to time;

“electronic communication” has the same meaning as in the Electronic Communications Act 2000⁽³⁾;

“eligible UK operator” has the meaning given by regulation 15;

“emissions” means the release of greenhouse gases into the atmosphere;

“emissions plan” means a plan issued under—

- (a) regulation 19(1)(a); or
- (b) regulation 15(1)(a) of the 2009 Regulations;

“EU ETS Directive” means Directive [2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowance trading within the Community and amending Council Directive [96/61/EC](#)⁽⁴⁾, as amended from time to time;

“greenhouse gases” has the meaning given by Article 3 of the EU ETS Directive;

“independent verifier” means a person or body accredited or endorsed by UKAS to carry out the verification requirements of Article 15 of the EU ETS Directive;

“Monitoring and Reporting Decision” means Commission Decision [2007/589/EC](#) establishing guidelines for the monitoring and reporting of greenhouse gas emissions pursuant to Directive [2003/87/EC](#) of the European Parliament and of the Council⁽⁵⁾, as amended from time to time;

“Northern Ireland Regulations” means the Pollution Prevention and Control Regulations (Northern Ireland) 2003⁽⁶⁾;

“Planning Appeals Commission” means the Planning Appeals Commission established under Article 110 of the Planning (Northern Ireland) Order 1991⁽⁷⁾;

“registered office” (except in Schedule 6) means the registered office in the United Kingdom that is required under section 86 of the Companies Act 2006⁽⁸⁾;

“regulator” has the meaning given by regulations 4, 5 and 6;

“tonne-kilometre data” has the meaning given by Part B of Annex IV to the EU ETS Directive;

“tonne-kilometres” has the meaning given by Part B of Annex IV to the EU ETS Directive;

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- (2) OJ No L 219, 22.8.2009, p 1; the Regulation is amended by Commission Regulation (EU) No 82/2010 (OJ No L 25, 29.1.2010, p 12).
 - (3) [2000 c. 7](#); the definition of electronic communication in section 15(1) was amended by the [Communications Act 2003 \(c. 21\)](#), section 406(1) and Schedule 17, paragraph 158.
 - (4) OJ No L 275, 25.10.03, p 32. The Directive is amended by European Parliament and Council Directives [2004/101/EC](#) (OJ No L 338, 13.11.2004, p 18), [2008/101/EC](#) (OJ No L 8, 13.1.2009, p 3) and [2009/29/EC](#) (OJ No L 140, 5.6.2009, p 63), and by Regulation (EC) No 219/2009 of the European Parliament and of the Council (OJ No L 87, 31.3.2009, p 109).
 - (5) OJ No. L 229, 31.8.2007, p.1; the Decision is amended as regards the inclusion of monitoring and reporting guidelines for emissions and tonne-kilometre data from aviation activities by Commission Decision [2009/339/EC](#) (OJ No L 103, 23.4.2009, p. 10).
 - (6) [S.R. \(NI\) 2003 No 46](#), amended by [S.R. \(NI\) 2003 No 496](#) and [S.I. 2003/3311](#); there is another amending instrument which is not relevant.
 - (7) [S.I. 1991/1220 \(N.I.11\)](#); relevant amending instruments are [S.I. 1999/660 \(N.I.4\)](#), [2003/430 \(N.I.8\)](#).
 - (8) [2006 c. 46](#).

“trading period” means one of the following periods—

- (a) 2012;
- (b) 2013 to 2020; or
- (c) subsequent periods of eight calendar years;

“UK operator” means a person who is—

- (a) identified in the Commission list; and
- (b) specified in that list as an operator to be administered by the United Kingdom;

“UKAS” means the United Kingdom Accreditation Service⁽⁹⁾.

Aircraft operator

3.—(1) A person is an “aircraft operator” in relation to each calendar year from 1st January 2010 where in respect of that calendar year that person—

- (a) is a UK operator; and
- (b) performs an aviation activity (or is deemed to perform an aviation activity in accordance with paragraph (5)).

(2) Where the regulator cannot identify the UK operator that performed an aviation activity it may, where the owner of the aircraft at the time it was used to perform the activity (“the owner”) is a UK operator, serve a notice on the owner.

(3) A notice under paragraph (2) must—

- (a) where this information is available to the regulator, specify the dates, times and locations of the activity;
- (b) be accompanied by such evidence relevant to the activity as the regulator considers appropriate; and
- (c) require the owner to inform the regulator of the identity of the person who performed the activity, by the deadline specified in the notice.

(4) The deadline specified in a notice given under paragraph (2) may be extended by the regulator.

(5) Where the owner does not comply with a notice served under paragraph (2) by the deadline as so specified or extended, the owner is, following that deadline, deemed to be the person that performed the aviation activity.

Regulator: general

4.—(1) Subject to regulations 5 and 6, the regulator of a UK operator is—

- (a) the Environment Agency, where the UK operator—
 - (i) has its registered office in England or Wales; or
 - (ii) does not have a registered office;
- (b) the Scottish Environment Protection Agency, where the UK operator has its registered office in Scotland;
- (c) the chief inspector, where the UK operator has its registered office in Northern Ireland.

(2) For the purposes of regulation 51, the regulator of an operator who is not a UK operator is the Environment Agency.

⁽⁹⁾ The United Kingdom Accreditation Service (company number 03076190) is a company limited by guarantee and which operates under a memorandum of understanding made on 1st August 1995 between it and the then Secretary of State for Trade and Industry.

Regulator: assessment of emissions

5.—(1) Where the regulator is satisfied that the relevant data is available to it, the regulator (“A”) must—

- (a) assess whether the highest percentage of aviation emissions of an aircraft operator without a registered office (“B”) are attributable to the area of a different regulator (“C”);
- (b) do so by 14th December in the final year of each trading period; and
- (c) make this assessment taking into account data from the beginning of the trading period to the date of the assessment.

(2) Where that assessment shows that the highest percentage of emissions is attributable to the area of C, A must give notice to B and C by 21st December in the final year of the trading period.

(3) Where—

- (a) A has given notice under paragraph (2); and
- (b) the regulator for the trading period following that notice is not determined under regulation 6,

C is the regulator of B from the beginning of that trading period.

Regulator: change in registered office

6.—(1) Where—

- (a) a UK operator changes its registered office to the area of a different regulator (“A”); and
- (b) the UK operator gives notice of the change to A and its existing regulator,

A is the regulator of the UK operator from the beginning of the trading period following the service of the notice.

(2) Where—

- (a) a UK operator which did not have a registered office in a trading period acquires a registered office;
- (b) that registered office is in the area of a regulator (“A”) that is not the regulator (“B”) of the UK operator in the trading period; and
- (c) the UK operator gives notice of the acquisition to A and B,

A is the regulator of the UK operator from the beginning of the trading period following the service of the notice.

Authority

7. In these Regulations the authority, in relation to a UK operator, is—

- (a) the Welsh Ministers, where the UK operator—
 - (i) is regulated by the Environment Agency; and
 - (ii) has its registered office in Wales;
- (b) the Scottish Ministers, where the regulator is the Scottish Environment Protection Agency;
- (c) the Department of the Environment in Northern Ireland, where the regulator is the chief inspector;
- (d) otherwise, the Secretary of State.

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Changes and effects yet to be applied to :

- Regulations revoked by [S.I. 2012/3038 reg. 85\(d\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 4 para. 1(1) Sch. 4 para. 1 renumbered as Sch. 4 para. 1(1) by [S.I. 2011/765 reg. 4\(6\)\(b\)](#)
- Sch. 4 para. 1(2) inserted by [S.I. 2011/765 reg. 4\(6\)\(b\)](#)
- reg. 2A2B inserted by [S.I. 2011/765 reg. 3\(2\)](#)
- reg. 36(6) applied (with modifications) by SI 2012/3038 reg. 87(1A) (as amended) by [S.I. 2013/755 Sch. 4 para. 425](#)
- reg. 52(5A) inserted by [S.I. 2011/765 reg. 4\(2\)\(a\)](#)
- reg. 53(2A) inserted by [S.I. 2011/765 reg. 4\(3\)\(b\)](#)
- reg. 53(5) inserted by [S.I. 2011/765 reg. 4\(3\)\(d\)](#)
- reg. 55(1) reg. 55 renumbered as reg. 55(1) by [S.I. 2011/765 reg. 4\(4\)](#)
- reg. 55(2) inserted by [S.I. 2011/765 reg. 4\(4\)](#)
- reg. 60(5A) inserted by [S.I. 2011/765 reg. 4\(5\)\(b\)](#)