
STATUTORY INSTRUMENTS

2011 No. 727

**The Greenhouse Gas Emissions Trading Scheme (Amendment)
(Fees) and National Emissions Inventory Regulations 2011**

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) (Fees) and National Emissions Inventory Regulations 2011 and come into force on 6th April 2011.

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005(1);

“missions Trading 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](#)(2) as amended from time to time.

Review

3.—(1) The Secretary of State must carry out a review of the provisions of Part 3 of the 2005 Regulations before the end of each review period and set out the conclusions of the review in a report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, compare the implementation of European obligations in Article 11b and Article 18(3) of the Emissions Trading Directive with the implementation of those obligations in other Member States.

(3) The report must in particular—

- (a) set out the objectives intended to be achieved by the regulatory system established by those provisions;
- (b) assess the extent to which those objectives have been achieved;
- (c) include the assessment of the comparison between implementations; and
- (d) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

(4) The Secretary of State must lay the report before Parliament before the end of the review period.

(5) The first review period is the period of five years beginning with the day on which these Regulations come into force.

(1) [S.I. 2005/2903](#).

(2) 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).

(3) Articles 11b and 18 of the Emissions Trading Directive have been implemented in part by Part 3 of the 2005 Regulations.

(6) Each subsequent review period is a period of five years beginning with the date on which the report of the review carried out during the preceding review period was laid before Parliament.

Amendment of the 2005 Regulations

4.—(1) The 2005 Regulations are amended as follows.

(2) In paragraphs (1) and (2) of regulation 5 (approval of and authorisation of participation in project activities), for “A person wishing to be” substitute “Subject to regulation 8A, a person wishing to be”.

(3) In regulation 5 after paragraph (7) insert—

“(8) Subject to paragraph (9), an application under paragraph (1) or (2) must be accompanied by the fee set out in paragraph (10) of this regulation where that application is submitted on or before 6th April 2012.

(9) No fee is required where the application relates to a proposed project activity in one of the countries listed in the Schedule to these Regulations (List of Least Developed Countries).

(10) The fee which must be paid under paragraph (8) is—

- (a) £700 for an application in respect of a proposed Article 6 project activity;
- (b) £700 for an application in respect of a proposed Article 12 project activity for the production of hydro-electric power with a generating capacity of more than 20 megawatts;
- (c) £250 for an application in respect of any other proposed Article 12 project activity.

(4) After regulation 8 (agreement with devolved administrations on project approval) insert—

“Exercise of Functions by the Environment Agency

8A.—(1) On or after 1st June 2011 applications under regulation 5 must be submitted to the Environment Agency.

(2) Subject to paragraphs (3) and (4), the functions of the Secretary of State under regulations 5, 6, 7 and 8 of these Regulations in respect of any such application submitted on or after 1st June 2011 must be exercised by the Environment Agency and in such a case the references to the Secretary of State in regulations 5, 6, 7 and 8 of these Regulations should be read as references to the Environment Agency.

(3) The Environment Agency must consult the Secretary of State as soon as reasonably practicable before determining—

- (a) an application under regulation 5 in relation to a proposed Article 6 project activity which is not of a type—
 - (i) which has been approved by the Secretary of State or the Environment Agency on or before the date on which the application is submitted; or
 - (ii) in respect of which participation has been authorised by the Secretary of State or the Environment Agency on or before the date on which the application is submitted;
- (b) an application under regulation 5 in relation to any proposed project activity which the Environment Agency reasonably considers to be novel, contentious or controversial;

(c) an application under regulation 5 in relation to any proposed project activity for the production of hydro-electric power with a generating capacity of more than 20 megawatts.

(4) The Secretary of State may require the Environment Agency to refer an application under regulation 5 to the Secretary of State for the Secretary of State to decide in accordance with this Part.”.

(5) Insert as a Schedule to the 2005 Regulations the Schedule contained in the Schedule to these Regulations.

10th March 2011

Gregory Barker
Minister of State,
Department of Energy and Climate Change

We consent

10th March 2011

Angela Watkinson
James Duddridge
Two of the Lords Commissioners of Her
Majesty’s Treasury