2012 No. 3038

CLIMATE CHANGE


Made - - - - 5th December 2012
Laid before Parliament 10th December 2012
Coming into force 1st January 2013

THE GREENHOUSE GAS EMISSIONS TRADING SCHEME REGULATIONS 2012

PART 1

1. Citation and commencement
2. Duty to review these Regulations
3. Interpretation
4. Application to the Crown etc.
5. Notices etc.
6. Applications etc.
7. Functions of the regulator: Northern Ireland
8. Commission Regulations: designations

PART 2

CHAPTER 1

9. Requirement for permit to carry out regulated activities
10. Applications for and grant of permits
11. Review, variation and consolidation of permits
12. Transfer of permits
13. Surrender of permits
14. Revocation of permits
CHAPTER 2

15. Excluded installations

CHAPTER 3

16. Allocation of allowances for 2013 to 2020

CHAPTER 4

17. Powers of entry
18. Charging schemes
19. Charging schemes: supplementary

PART 3

CHAPTER 1

20. Interpretation
21. Civil Aviation Authority

CHAPTER 2

UKUK

22. UK administered operators: power to designate
23. Application to be designated as a UK administered operator
24. Transfers of operators between member States
25. Gibraltar operators
26. UK aircraft operators
27. Regulators: general
28. Regulators: assessment of emissions
29. Regulators: change in registered office

CHAPTER 3

30. Allocation of aviation allowances

CHAPTER 4

31. Interpretation
32. Application for an emissions plan by a UK administered operator
33. Requirement to notify the regulator if an emissions plan is not applied for
34. Issue of an emissions plan
35. Monitoring and reporting emissions
36. Emissions plan conditions
37. Variation of an emissions plan
38. Variation of a benchmarking plan

CHAPTER 5

39. Detention and sale of aircraft
40. Aircraft operating bans

PART 4

41. Surrender of allowances: operators of installations
42. Surrender of allowances: UK aircraft operators

PART 5

etc.

43. Enforcement notices
44. Power to determine reportable emissions

PART 6

45. Provision of information
46. Disclosure of information
47. National security

PART 7

48. Interpretation
49. Carbon Price
50. Penalty notices
51. Discretion in imposing civil penalties
52. Carrying out a regulated activity contrary to regulation 9
53. Failure to comply with a condition of a permit
54. Failure to surrender allowances
55. Exceeding an emissions target for an excluded installation
56. Failure to pay a penalty for exceeding an emissions target for an excluded installation
57. Under-reporting of emissions from an excluded installation
58. Failure to notify when an excluded installation ceases to meet the criteria for being excluded
59. Failure to surrender a permit
60. Failure to submit or resubmit an application for an emissions plan
61. Failure to notify the regulator if an emissions plan is not applied for
62. Failure to comply with a condition of an emissions plan
63. Failure to monitor aviation emissions
64. Failure to report aviation emissions
65. Failure to provide assistance and advice
66. Failure to comply with a direction relating to an operating ban
67. Failure to return allowances
68. Failure to comply with an enforcement notice
69. Failure to comply with an information notice
70. Providing false or misleading information
71. Publication of names of persons subject to penalties under regulation 54(1)
PART 8

CHAPTER 1

72. Interpretation
73. Rights of appeal
74. Rights of appeal: registries
75. Appeal body
76. Effect of an appeal
77. Determination of an appeal

CHAPTER 2

78. Procedure for appeals

PART 9

UK

79. Interpretation
80. The Union Registry
81. The UK Registry

PART 10

82. Recovery of fees
83. Consequences of non-payment
84. Guidance

PART 11

85. Revocations
86. Savings and transitional provisions: the 2005 Regulations
87. Savings and transitional provisions: the 2010 Regulations
88. Transitional provisions: permits
89. Transitional provisions: aviation emissions plans

Signature

SCHEDULE 1 — Application to the Crown etc.
1. Crown application
2. Entry to Crown premises
3. Service on certain Crown operators

SCHEDULE 2 — Notices etc.
1. In this Schedule, “instrument” means any notice or direction served...
2. An instrument must be in writing.
3. An instrument may be served on or given to a...
4. In the case of a body corporate, an instrument may...
5. In the case of a partnership, an instrument may...
6. If a person (“Q”) to be served with or given...
7. For the purposes of this Schedule, “proper address” means (subject...
8. For the purposes of paragraph 7, where a body corporate...
9. (1) Where for the purposes of paragraph 7 the person...
10. The provisions of this Schedule do not apply where a...

SCHEDULE 3 — Applications etc.
1. Applications etc.: general
2. Determination of applications

SCHEDULE 4 — Permits
1. Applications for permits
2. Content of a greenhouse gas emissions permit
3. Transfer of permits
4. Surrender of permits
5. Revocation of permits

SCHEDULE 5 — Excluded installations
1. Interpretation
2. Conversion of a greenhouse gas emissions permit
3. Content of an excluded installation emissions permit
4. Activities during 2012: duty to notify regulator
5. Emissions target: duty not to exceed
6. Emissions target: increase in the capacity of an excluded installation
7. Banking an overachieved emissions target
8. Termination of an excluded installation emissions permit
9. End of excluded installation status

SCHEDULE 6 — Allocation and adjustment of allowances
1. Interpretation
2. Application for an allocation from the new entrant reserve: new entrants
3. Application for an allocation from the new entrant reserve: significant capacity extensions
4. Notification of preliminary annual number of allowances: new entrants and significant capacity extensions
5. Calculation of final total annual amount of allowances allocated free of charge: new entrants and significant capacity extensions
6. Adjustment of allocation: significant capacity reductions
7. Adjustment of allocation to an installation: permanent cessations of regulated activities
8. Adjustment of allocation to an installation: partial cessation of regulated activities
9. Notification of preliminary annual number of allowances: significant capacity reductions and partial cessation of regulated activities
10. Calculation of final total annual amount of allowances: significant capacity reductions and partial cessation of regulated activities
11. Recovery of allowances

SCHEDULE 7 — Allocation of aviation allowances
1. Purpose of this Schedule
2. Application for a benchmarking plan
3. Issue of a benchmarking plan
4. Amendment of a benchmarking plan
5. Monitoring tonne-kilometre data
6. Reporting tonne-kilometre data
7. Submission of the report to the Secretary of State and the European Commission
8. Publication of aviation allowances
9. Force majeure
10. Recovery of allowances

SCHEDULE 8 — Allocation of aviation allowances from the special reserve
1. Purpose of this Schedule
2. Application for a benchmarking plan
3. Issue of a benchmarking plan
4. Amendment of a benchmarking plan
5. Monitoring tonne-kilometre data
6. Application for an allocation of allowances
7. Submission of an application to the Secretary of State and to the European Commission
8. Publication of aviation allowances from the special reserve

SCHEDULE 9 — Detention and sale of aircraft
1. Interpretation
2. Sale following detention of aircraft
3. Release of aircraft
4. Court procedures
5. Proceeds of sale
6. Equipment and documents
7. Assistance of aerodrome operator
8. Procedure for applying for leave to sell an aircraft

SCHEDULE 10 — Aircraft operating bans
1. Application for an operating ban
2. Enforcement of an operating ban

SCHEDULE 11 — Appeals to the Scottish Ministers
PART 1
1. (1) Any person who wishes to appeal to the Scottish...
2. (1) Subject to sub-paragraph (2), notice of appeal in accordance...
3. (1) The regulator must, within 16 days of receipt of...
4. (1) Before determining an appeal, the appeal body may afford...
5. (1) Where an appeal under regulation 73(1) is to be...
6. (1) The appeal body must give notice to the appellant...
7. Where an appeal is made against the refusal of an...
8. Where the appeal body’s determination of an appeal is quashed...
9. In this Part— (a) “affected party” means an interested party—...

PART 2
10. In this Part— “appointed person” means a person appointed under...
11. An appointment must be in writing and—
12. Subject to the provisions of this Part, an appointed person,...
13. (1) If the appellant, the regulator or any person whose...
14. (1) Where— (a) under paragraph 11(c) the appointment of the...
15. (1) Anything done or omitted to be done by an...

SCHEDULE 12 — Appeals (Northern Ireland)
1. (1) A person who wishes to appeal to the Planning...
2. Notice of appeal in accordance with paragraph 1 is to...
3. (1) The appeals commission must determine the appeal and paragraphs...
4. An appeal under this Schedule must be accompanied by a...

Explanatory Note