
STATUTORY INSTRUMENTS

2013 No. 3135

CLIMATE CHANGE

The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013

Made - - - - *11th December 2013*
Laid before Parliament *13th December 2013*
Coming into force - - *31st January 2014*

The Secretary of State is a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the environment.

In accordance with section 2(4) of the Pollution Prevention and Control Act 1999 (“the 1999 Act”)⁽³⁾, the Secretary of State has consulted the Environment Agency, the Natural Resources Body for Wales, the Scottish Environment Protection Agency, and such bodies or persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses, and such other bodies and persons, as the Secretary of State considers appropriate.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 (“the 1972 Act”), and it appears to the Secretary of State that it is expedient for the references to an EU instrument in these Regulations to be construed as references to that instrument as amended from time to time.

These Regulations make provision for amendment of section 41A of the Environment Act 1995⁽⁴⁾, and such amendment is made in exercise of the powers conferred by section 2(2) of the 1972 Act notwithstanding the absence of an approved prior draft.

Accordingly the Secretary of State, in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the 1999 Act⁽⁵⁾ and by section 2(2) of the 1972 Act, as read with paragraph 1A of Schedule 2 to the 1972 Act⁽⁶⁾, makes the following Regulations⁽⁷⁾:

(1) [S.I. 2008/301](#).
(2) [1972 c. 68](#); section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)).
(3) [1999 c. 24](#); section 2(4) was amended by paragraph 395 of Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013 ([W.S.I. 2013/755 \(W. 90\)](#)).
(4) [1995 c. 25](#); section 41A was inserted by [S.I. 2005/925](#) and amended by [S.I. 2011/2911](#), [S.I. 2012/2788](#) and [S.I. 2013/1821](#).
(5) There are amendments to Schedule 1 which are not relevant to these Regulations.
(6) Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 ([c. 51](#)) and amended by [S.I. 2007/1388](#) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 ([c. 7](#)).
(7) Under section 57 of the Scotland Act 1998 ([c. 46](#)), despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under Community law in respect of devolved matters, any function of the Secretary of State in relation to any matter continues to be exercisable as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972. And similarly, under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 ([c. 32](#)), despite the transfer to the Welsh Ministers of functions under section 2 of the 1999 Act so far as exercisable in relation to Wales (except in relation to offshore oil and gas exploration and exploitation), those functions continue to be exercisable by the Secretary of State in relation to Wales for such purposes.

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 and come into force on 31st January 2014.

PART 2

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

Interpretation

2. A reference in this Part to a numbered regulation or Schedule is to that regulation of, or Schedule to, the Greenhouse Gas Emissions Trading Scheme Regulations 2012⁽⁸⁾.

Penalty for carrying out an unauthorised activity

3.—(1) Regulation 52 (carrying out a regulated activity contrary to regulation 9) is amended as follows.

(2) In paragraph (2), for “For each” substitute “Subject to paragraph (3), for each”.

(3) For paragraph (3), substitute—

“(3) In imposing the penalty under paragraph (2), the regulator may increase the amount determined under that paragraph by a percentage designed to ensure that the penalty exceeds the amount of any economic benefit that P has obtained as result of the failure to comply with regulation 9.”.

(4) In paragraph (4)(b), for “in accordance with” substitute “under”.

Transitional provisions: penalties

4.—(1) In regulation 3 (interpretation), in the definition of “allowance”, for “subject to regulations 54(7) and 82(1)” substitute “subject to regulations 54(7), 82(1) and 87B(5)”.

(2) In regulation 86 (savings and transitional provisions: the 2005 Regulations)—

(a) in paragraph (15), after “the following civil penalties apply” insert “(subject to the regulator’s discretion under regulation 51 above)”; and

(b) in paragraph (18), for “Regulations” substitute “Subject to regulation 87B below, regulations”.

(3) In paragraph (8) of regulation 87 (savings and transitional provisions: the 2010 Regulations)⁽⁹⁾, for “Subject to regulation 87A below” substitute “Subject to paragraph (8A) and to regulations 87A and 87B below”.

(4) After regulation 87(8) insert—

⁽⁸⁾ S.I. 2012/3038, amended by paragraphs 418 to 427 of Schedule 4 to W.S.I. 2013/755 (W. 90) and by S.I. 2013/1037.

⁽⁹⁾ Regulation 87(8) was amended, and regulation 87A inserted, by S.I. 2013/1037.

“(8A) Regulation 51 above applies in relation to the penalty under regulation 35 of the 2010 Regulations as it applies in relation to the penalty under regulation 64 above.”.

(5) After regulation 87A insert—

“Unreported emissions arising before 2013

87B.—(1) Where paragraph (2) applies, a person (“P”) is not liable to an excess emissions penalty for a failure to surrender allowances in respect of those reportable emissions in a relevant year (“Y”) that—

- (a) were not reported in the verified emissions report submitted for Y; but
- (b) have been determined by the regulator.

(2) This paragraph applies where P, before the regulator serves on P a penalty notice imposing an excess emissions penalty in respect of emissions in Y (or a notice of the regulator’s intention to do so)—

- (a) notifies the regulator that there are reportable emissions not included in the report that has been submitted for Y; and
- (b) has surrendered allowances equal to the reportable emissions for Y as determined by the regulator.

(3) Where paragraph (2) applies, P is liable to the civil penalty of the sterling equivalent of 20 Euros for each allowance that P failed to surrender by 30th April in the year following Y in respect of the unreported emissions.

(4) Regulation 51(1) above applies to a penalty under paragraph (3) as it applies to a penalty under Part 7.

(5) In this regulation—

- (a) “allowance” includes—
 - (i) where the excess emission penalty would arise under the 2010 Regulations, an aviation allowance; and
 - (ii) within the limits allowed by regulation 27A of the 2005 Regulations or regulation 26 of the 2010 Regulations, a project credit as defined by regulation 27 of the 2010 Regulations;
- (b) “determined” means determined under regulation 30 of the 2005 Regulations or regulation 22 of the 2010 Regulations;
- (c) “excess emissions penalty” means the penalty under regulation 39 of the 2005 Regulations or regulation 38(1)(a) of the 2010 Regulations;
- (d) “penalty notice” means a notice under regulation 41(2) of the 2005 Regulations or regulation 30(1) of the 2010 Regulations;
- (e) “relevant year” means a calendar year prior to 2013;
- (f) “unreported emissions” means the emissions mentioned in paragraph (1);
- (g) “sterling equivalent” has the meaning given in regulation 54(7) above.”.

Registries

5.—(1) In regulation 3 (interpretation)—

- (a) omit the definition of “the Registries Regulation 2011”, and at the appropriate place insert—

““the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 of 2 May 2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [280/2004/EC](#) and No [406/2009/EC](#) of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011(10), as amended from time to time;”;

- (b) in the definition of “registry account”—
 - (i) for “or “excluded”” substitute “, “excluded” or “closed””; and
 - (ii) for “Article 9 of the Registries Regulation 2011” substitute “Article 10 of the Registries Regulation 2013”; and
 - (c) in the definition of “the Union Registry” for “2011” substitute “2013”.
- (2) In regulation 8 (Commission Regulations: designations)—
- (a) in paragraph (1), for “2011” substitute “2013”;
 - (b) for paragraphs (2) and (3) substitute—
 - “(2) Subject to paragraph (3), the regulator is the competent authority designated by the United Kingdom for the purposes of the Registries Regulation 2013 (other than Articles 25(3) and 34(6)).
 - (3) The Secretary of State is the competent authority so designated for the purposes of—
 - (a) Article 19;
 - (b) Article 32(2);
 - (c) Article 33(1);
 - (d) Article 34(7); and
 - (e) Article 97(1).”; and
 - (c) omit paragraphs (4) and (5).
 - (3) In paragraph (5) of regulation 44 (power to determine reportable emissions), for “Article 32(6) of the Registries Regulation 2011” substitute “Article 35(6) of the Registries Regulation 2013”.
 - (4) In paragraph (6)(e) of regulation 45 (provision of information), for “2011” substitute “2013”.
 - (5) In regulation 74 (rights of appeal: registries)—
 - (a) in paragraph (1)—
 - (i) after “registry administrator” insert “or KP registry administrator”; and
 - (ii) for “2011” substitute “2013”;
 - (b) for paragraph (2) substitute—
 - “(2) Those provisions are—
 - (a) Article 22(3);
 - (b) Article 24(6);
 - (c) Article 25(3);
 - (d) Article 33(5);
 - (e) Article 34(6).”; and
 - (c) omit paragraphs (3) and (4).
 - (6) In regulation 77 (determination of an appeal)—

- (a) for paragraph (2) substitute—
 - “(2) In determining an appeal under regulation 74, the appeal body may give directions to the registry administrator or the KP registry administrator as to the exercise of their functions under the Registries Regulation 2013.”; and
- (b) in paragraph (3), for “2010 or 2011” substitute “2013”.
- (7) In regulation 79 (interpretation)—
 - (a) for paragraph (1) substitute—
 - “(1) In this Part, a reference to a numbered Article is to that Article of the Registries Regulation 2013.”; and
 - (b) in paragraph (2), for “Article 49” substitute “Article 51(1)” and for “Article 53(1)” substitute “Article 54(1)”.
- (8) In regulation 80 (the Union Registry)—
 - (a) omit paragraph (1);
 - (b) in paragraph (2), for “Article 32(2)” substitute “Article 35(2)”;
 - (c) in paragraph (3), for “Articles 32(4) and (5)” substitute “Article 35(4) and (5)”;
 - (d) in paragraph (4), for “Article 14(1) or 15(1)” substitute “Article 16(1) or 17(1)”;
 - (e) in paragraph (6), for “Article 34” substitute “Article 37”;
 - (f) in paragraph (11), for “Article 50(1) or 54(1)” substitute “Article 52(1) or 55(1)”;
 - (g) in paragraph (12), for “Article 50(2) or 54(2)” substitute “Article 52(2) or 55(2)”;
 - (h) in paragraph (16), for “Article 36(3)” substitute “Article 39(3)”.
- (9) In paragraph (1) of regulation 81 (the UK Registry), for “Article 3(1) of the Registries Regulation 2010” substitute “Article 5(1) of the Registries Regulation 2013”.
- (10) Omit paragraph 81(2).
- (11) In paragraph 2 of regulation 84 (guidance), for “the Registries Regulations 2011 or the Registries Regulations 2010” substitute “the Registries Regulations 2013”.
- (12) In paragraph 3(12) of Schedule 4 (permits), for “Article 50(1)(d) or (e) of the Registries Regulation 2011” substitute “Article 52(1)(c) or (d) of the Registries Regulation 2013”.
- (13) In paragraph 8(9) and (10) of Schedule 5 (excluded installations), for “2011” substitute “2013”.

Minor amendments

- 6.—(1) In paragraph (1) of regulation 69 (failure to comply with an information notice), for “notice” substitute “a notice”.
- (2) In paragraph 1(5)(b) of Schedule 3 (applications etc.), for “report” substitute “report or notice”.
- (3) In paragraph 3(3) of Schedule 5 (excluded installations), for “mention” substitute “mentioned”.
- (4) In Schedule 6 (allocation and adjustment of allowances)—
 - (a) in paragraph 7(7)(b), for “paragraph 11(1)” substitute “paragraph 11(1)(c) and (2)”;
 - (b) in paragraph 7(9)(c), for “12(1)” substitute “13(1)”;
 - (c) in paragraph 11(3), for “sub-paragraph (1)” substitute “sub-paragraph (2)”.
- (5) In paragraph 1(2) of Schedule 7 (allocation of aviation allowances), insert at the end “or under the 2009 Regulations”.

PART 3

Amendment of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005

Interpretation

7. A reference in this Part to a numbered regulation is to that regulation of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005⁽¹¹⁾.

Review of the Regulations

8. After regulation 1 insert—

“Duty to review these Regulations

1A.—(1) The Secretary of State must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Secretary of State must, so far as is reasonable, have regard to how the Emissions Trading Directive and Decision [280/2004/EC](#)⁽¹²⁾ are implemented 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 these Regulations;
- (b) assess the extent to which those objectives are achieved; and
- (c) 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 first report under this regulation must be published before the end of the period of five years beginning with the day on which the Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013 come into force.

(5) Reports under this regulation are afterwards to be published at intervals not exceeding five years.”

Notices

9. In regulation 3, for “Regulation 4 of the 2005 Regulations” substitute “Schedule 2 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012”.

National inventory: removal of powers of entry

10.—(1) Omit regulation 11 (powers of entry).

(2) In regulation 12 (agreement with devolved administrations on national inventory)—

- (a) after “under regulation 10” omit “and to authorise a person under regulation 11”;

⁽¹¹⁾ [S.I. 2005/2903](#), amended by [S.I. 2011/727](#) and [2012/3038](#).

⁽¹²⁾ Decision No [280/2004/EC](#) of the European Parliament and of the Council concerning a mechanism for monitoring Community greenhouse gas emissions and for implementing the Kyoto Protocol (OJ No L 49, 19.2.2004, p 1).

- (b) after “served in Scotland” omit “or an authorisation authorises the exercise of powers in Scotland”;
- (c) after “served in Northern Ireland” omit “or an authorisation authorises the exercise of powers in Northern Ireland”; and
- (d) after “served in Wales” omit “or an authorisation authorises the exercise of powers in Wales”.

National inventory: abolition of criminal offences

11. In paragraph (1) of regulation 13 (offences), omit—

- (a) sub-paragraph (a);
- (b) paragraphs (ii) and (iii) of sub-paragraph (b); and
- (c) sub-paragraphs (c) and (d).

National inventory: civil penalties

12. After regulation 13 insert—

“PART 6

Civil penalties

Penalty notices

14.—(1) Subject to regulation 15, where the Secretary of State is satisfied that a person (“P”) is liable to a civil penalty under this Part the Secretary of State must, serve a notice on P (a “penalty notice”).

(2) The penalty notice must specify—

- (a) the regulation under which that liability arises;
- (b) the amount of the civil penalty due;
- (c) whether or not P may be liable to a civil penalty in accordance with regulation 16(2)(b) (an “additional daily penalty”); and
- (d) if P will not be liable to an additional daily penalty, the date by which the penalty for which P is liable must be paid.

(3) Subject to regulation 15, where the Secretary of State is satisfied that P is liable to an additional daily penalty the Secretary of State must, when the amount of that additional daily penalty can be determined, serve a notice on P (an “additional penalty notice”) specifying—

- (a) the total amount of the civil penalties due; and
- (b) the date by which that amount must be paid.

(4) A civil penalty imposed by a penalty notice or an additional penalty notice must be paid to the Secretary of State by the date specified in the notice.

(5) Any such civil penalty is recoverable by the Secretary of State as a civil debt.

Discretion in imposing civil penalties

15. Where the Secretary of State considers it appropriate to do so, the Secretary of State may—

- (a) refrain from imposing a civil penalty under this Part;
- (b) reduce the amount of a penalty (including the amount of an additional daily penalty);
- (c) extend the time for payment specified in the penalty notice or additional penalty notice;
- (d) withdraw a penalty notice or an additional penalty notice; or
- (e) modify the notice by substituting a lower penalty.

Failure to comply with a notice under regulation 10(1)

16.—(1) A person (“P”) is liable to the civil penalties in paragraph (2) where P fails to comply (or to comply on time) with the requirements of a notice served under regulation 10(1) (an “information notice”).

(2) The civil penalties are—

- (a) £1,500; and
- (b) £150 for each day that P fails to comply with the requirements of the information notice, following service of a penalty notice, up to a maximum of £13,500.

Providing false or misleading information

17.—(1) Where paragraph (2) applies, a person is liable to the civil penalty in paragraph (3) where that person provides false or misleading information, or makes a statement which is false or misleading in a material particular.

(2) This paragraph applies where the statement is made (or the information is provided) to the Secretary of State in writing for the purpose of preparing a national inventory, whether or not the statement is made (or the information provided) in purported compliance with a requirement imposed by a notice under regulation 10(1).

(3) The civil penalty is £1,000.

Appeals

18.—(1) A person on whom a penalty notice or additional penalty notice has been served under this Part may appeal to the First-tier tribunal⁽¹³⁾.

(2) The bringing of the appeal suspends the effect of the notice pending the final determination or withdrawal of the appeal.

(3) In determining the appeal the First-tier tribunal may—

- (a) affirm or quash the notice; or
- (b) reduce the amount of the penalty imposed by the notice (including the amount of any additional daily penalty).”.

(13) The procedure for appeals to the First-tier Tribunal is provided by the Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (S.I. 2009/1976 (L. 20)). Appeals are assigned to the General Regulatory Chamber of the First-tier Tribunal by virtue of article 3(a) of the First-tier Tribunal and Upper Tribunal (Chambers) Order 2010 (S. I. 2010/2655).

PART 4

Amendment of the Environment Act 1995

Section 41A of the Environment Act 1995

13.—(1) Section 41A of the Environment Act 1995 (charges in respect of the EU greenhouse gas emissions trading scheme) is amended as follows.

(2) In subsections (1)(b)(i) and (6)(a) for “Registries Regulation 2011” substitute “Registries Regulation 2013”.

(3) For subsection (7) substitute—

“(7) In this section—

“charging authority” means the Agency, the Natural Resources Body for Wales or SEPA;

“the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [290/2004/EC](#) and No [406/2009/EC](#) of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time; and

“trading scheme registry” means any registry operated by the Agency for the purpose of meeting the obligations of the United Kingdom referred to in Articles 4(3) and 5(1) of the Registries Regulation 2013.”.

PART 5

Amendment of the Environment (Northern Ireland) Order 2002

Interpretation

14. A reference in this Part to a numbered paragraph is to that paragraph of Schedule 1 to the Environment (Northern Ireland) Order 2002 (particular purposes for which provision may be made under Article 4 (regulation of polluting activities)(**14**).

Paragraph 9B of Schedule 1

15. In paragraph 9B(2)(a)(**15**) for “Registries Regulation 2011” substitute “Registries Regulation 2013”.

Paragraph 26

16.—(1) Paragraph 26(**16**) is amended as follows.

(2) For the definition of “the Registries Regulation 2011” substitute—

““the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [290/204/EC](#) and No [406/2009/EC](#) of the European

(14) [S.I. 2002/3153 \(N.I. 7\)](#); relevant amendments are noted below.

(15) Paragraph 9B was inserted by [S.I. 2011/2911](#) and amended by [S.I. 2012/2788](#).

(16) Paragraph 26 was amended by [S.R. \(N.I.\) 2010/92](#), [S.I. 2011/2911](#) and [S.I. 2012/2788](#).

Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time;”.

(3) For the definition of “trading scheme registry” substitute—

““trading scheme registry” means any registry operated by the Environment Agency for the purpose of meeting the obligations of the United Kingdom referred to in Articles 4(3) and 5(1) of the Registries Regulation 2013.”.

PART 6

Amendment of the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010

Regulation 2 of the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010

17.—(1) Regulation 2 of the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010⁽¹⁷⁾ is amended as follows.

(2) For the definition of “the Registries Regulation 2011” substitute—

““the Registries Regulation 2013” means Commission Regulation (EU) No 389/2013 establishing a Union Registry pursuant to [Directive 2003/87/EC](#) of the European Parliament and of the Council, Decisions No [290/204/EC](#) and No [406/2009/EC](#) of the European Parliament and of the Council and repealing Commission Regulations (EU) No 920/2010 and No 1193/2011, as amended from time to time;”.

(3) For the definition of “trading scheme registry” substitute—

““trading scheme registry” means any registry operated by the Environment Agency for the purpose of meeting the obligations of the United Kingdom referred to in Articles 4(3) and 5(1) of the Registries Regulation 2013.”.

11th December 2013

Gregory Barker
Minister of State
Department of Energy and Climate Change

EXPLANATORY NOTE

(This note is not part of the Regulations)

[Directive 2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowance trading within the Community⁽¹⁸⁾ (“the Directive”) is currently implemented in the United Kingdom by the Greenhouse Gas Emissions Trading Scheme Regulations 2012 ([S.I. 2012/3038](#)), which came into force on 1st January 2013 (“the 2012 Regulations”). Those Regulations consolidated (with amendments) and replaced the previous implementing Regulations, namely the Greenhouse Gas Emissions Trading Scheme Regulations 2005 ([S.I. 2005/925](#)) and the Aviation Greenhouse Gas Emissions Trading Scheme Regulations 2010 ([S.I. 2010/1996](#)).

Part 2 (regulations 2 to 6) of these Regulations amends provisions of the 2012 Regulations.

Regulation 3 amends regulation 52, which sets out the penalty for operating an installation without a permit. The amendment will enable the regulator to impose a penalty that is greater than the economic benefit of non-compliance as calculated under regulation 52(2), while preserving the full extent of the regulator’s discretion under regulation 51 of the 2012 Regulations.

Regulation 4 amends the transitional provisions of the 2012 Regulations, extending the discretion under regulation 51 to any remaining penalties in respect of breaches of the 2005 or the 2010 Regulations, and aligning the penalty for under-reporting emissions arising before 2013 with the provisions in regulation 54(4) to (6) of the 2012 Regulations (which apply to emissions in 2013 and subsequent years).

Regulation 5 updates the provisions on the Union Registry of EU emissions trading allowances, and the UK Registry of project credits issued under the Kyoto Protocol, in order to take account of the new Commission Regulation on registries.

Regulation 6 makes a number of minor amendments.

Part 3 (regulations 7 to 12) amends provisions of the Greenhouse Gas Emissions Trading Scheme (Amendment) and National Emissions Inventory Regulations 2005 ([S.I. 2005/2903](#)). Those Regulations deal with the approval of projects under the Kyoto Protocol⁽¹⁹⁾ and with the preparation of a national inventory of greenhouse gas emissions under Article 4(1)(a) of the United Nations Framework Convention on Climate Change⁽²⁰⁾.

Regulation 8 inserts a provision requiring those Regulations to be periodically reviewed.

Regulation 10 removes a power of entry to premises (and connected powers of investigation and enquiry) relating to the preparation of a national inventory.

Regulation 11 abolishes a number of criminal offences relating to the preparation of the national inventory. In place of those offences, *regulation 12* introduces a system of civil penalties modelled on Part 7 of the 2012 Regulations. An appeal against the imposition of a penalty may be made to the First-tier tribunal.

Part 4 (regulation 13) amends the definitions in section 41A of the Environment Act 1995, which applies to regulators in England, Wales and Scotland. The amendments replace the references to the Registries Regulations 2010 and 2011, which were repealed, with a reference to the Registries Regulation 2013, which replaced them.

⁽¹⁸⁾ OJ No L 275, 25.10.2003, p 32: the Directive was 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).

⁽¹⁹⁾ Kyoto Protocol to the United Nations Framework Convention on Climate Change (Cm 6485).

⁽²⁰⁾ Cm 2833.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 5 (regulations 14 to 16) similarly amends the definitions in the Environment (Northern Ireland) Order 2002 which applies to functions in Northern Ireland.

Part 6 (regulation 17) similarly amends the definitions in the Greenhouse Gas Emissions Trading Scheme Charging Scheme Regulations (Northern Ireland) 2010 which applies to functions in Northern Ireland.

An impact assessment has not been prepared as the instrument is not expected to have any significant impact on the private, voluntary or public sectors. A transposition note setting out how these Regulations implement the relevant provisions of the Directive is annexed to the Explanatory Memorandum published alongside the instrument on the legislation website of The National Archives (<http://www.legislation.gov.uk>).