

## TRANSPOSITION NOTE

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

This note describes, in table form, how the previous transposition of Articles of the EU ETS Directive has been reviewed via the Greenhouse Gas Emissions Trading Scheme and National Emissions Inventories (amendment) Regulations 2013.

Article	Copy out (yes/no)	If no - justification	Previous National Provision	New National Provision
<p>Article 16 (1) – requires Member States to establish effective and proportionate penalties to ensure compliance with the obligations set out in the Directive 2003/87/EC.</p>	<p>No</p>	<p>Article 16 (1) sets out the obligation to establish an enforcement regime but accords Member States the required level of discretion over the types of sanction to be introduced.</p>	<p>Regulation 86 (15) (savings and transitional provisions for the 2005 Regulations) in the 2012 Regulations</p>	<p>Regulation 4 (2) (a) amends regulation 86 (15) to make it clear that the regulator’s discretion to reduce or waive civil penalties applies to penalties issued in respect of breaches of the 2005 Regulations</p>
			<p>Regulation 87(8) in the 2012 Regulations (savings and transitional provisions for the Aviation Regulations)</p>	<p>Regulation 4 (4) adds paragraph (8A) to regulation 87 in the 2012 Regulations to give the regulator a discretion to reduce or waive civil penalties issued in respect of breaches of the Aviation Regulations</p>
<p>Article 16 (3) - sets out a €100 tCO<sub>2</sub> excess penalty for failure to surrender allowances by the 30<sup>th</sup> of April each year over which Member States have no discretion.</p>	<p>Yes</p>	<p>-</p>	<p>Regulation 39 in the 2005 Regulations and regulation 38 in the Aviation Regulations</p>	<p>Regulation 4 (5) adds Regulation 87B to the saving and transitional provisions in the 2012 Regulations, giving a narrower interpretation to the scope of Article 16(3), and introducing a lesser domestic penalty under Article 16(1). That is the penalty of €20 per tCO<sub>2</sub> for failure to surrender allowances in respect of emissions in Phase II that were under-reported, provided that the operator has made a timely rectification of the error.</p>