
STATUTORY INSTRUMENTS

2018 No. 1205

**EXITING THE EUROPEAN UNION
CLIMATE CHANGE LEVY**

**The Climate Change Agreements (Amendment
of Agreements) (EU Exit) Regulations 2018**

*Made - - - - 19th November 2018
Laid before the House of 22nd November
Commons - - - - 2018
Coming into force in accordance with regulation 1*

The Secretary of State makes these Regulations in exercise of powers conferred by paragraphs 52D and 146(7) of Schedule 6 to the Finance Act 2000⁽¹⁾.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Climate Change Agreements (Amendment of Agreements) (EU Exit) Regulations 2018 and come into force on exit day⁽²⁾.

(2) In these Regulations—

“agreement” means an umbrella agreement or an underlying agreement;

“umbrella agreement” means an agreement that is an umbrella agreement for the purposes of paragraph 48 of Schedule 6 to the Finance Act 2000;

“underlying agreement” means an agreement that is an underlying agreement for the purposes of paragraph 48 of Schedule 6 to the Finance Act 2000 or, if there is no umbrella agreement, an agreement falling within paragraph 47 of Schedule 6 to that Act.

Amendment of the Climate Change Agreements

2.—(1) An agreement entered into before exit day has effect as if—

(a) the definition, if any, of “EU ETS Directive” were omitted;

(1) 2000 c.17. Paragraphs 52A to 52F were inserted by paragraph 9 of Schedule 31 to the Finance Act 2012 (c.14). Schedule 31 to the Finance Act 2012 also amended paragraphs 44, 45, 45B, 47, 48, 49 and 137 of Schedule 6 to the Finance Act 2000. There are other amendments to the Finance Act 2000 which are not relevant.

(2) “Exit Day” is defined in Schedule 1 to the Interpretation Act 1978 (c.30), as amended by paragraph 22(e) of Part 2 of Schedule 8 to the European Union (Withdrawal) Act 2018 (c.16).

- (b) for the definition, if any, of “technical annex”, there were substituted the definition contained in paragraph (2);
- (c) for each reference, if any, to “European Commission Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty (2004/C 244/02)”, there were substituted “European Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01)”;
- (d) for each reference, if any, to “regulations made for the purpose of implementing the EU ETS Directive”, there were substituted “the Greenhouse Gas Emissions Trading Scheme Regulations 2012(3), as amended from time to time.”
- (2) The definition contained in this paragraph, as referred to in paragraph (1)(b), is as follows—
- ““technical annex” means the technical annex to this Agreement dated 6th March 2013 and published by the Administrator or the Secretary of State, available via the Administrator’s website(4), reading that technical annex as if—
- (a) in the fourth bullet of paragraph 3 (structural changes), “, as defined in [Directive 2003/87/EC](#)” were omitted;
- (b) in paragraph 5 (other changes), for “European Commission Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficult (2004/C 244/02)” there were substituted “European Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (2014/C 249/01)”;
- (c) in Annex B (interpretation)—
- (i) before the definition of “carbon target”, there were inserted—

“Annex 1 Activities listed in Annex 1 to [Directive 2003/87/EC](#) of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council [Directive 96/61/EC](#)(5) as it had effect immediately before exit day, reading that Annex as if—

- (a) for “in a storage site permitted under [Directive 2009/31/EC](#)” in each place in which those words occur, there were substituted “in a storage site permitted under Chapter 3 of Part 1 of the Energy Act 2008(6) or other domestic legislation which immediately before exit day implemented [Directive 2009/31/EC](#)(7)”;
- (b) in the section titled ‘Aviation’—

- (3) [S.I. 2012/3038](#), as amended by [S.I. 2013/755](#), [2013/1037](#), [2013/3135](#), [2014/3125](#), [2015/912](#), [2015/933](#), [2015/1388](#), [2015/1849](#), [2016/28](#), [2017/1207](#) and [2018/306](#) and [S.R. 2016 No. 28](#).
- (4) A hard copy of the technical annex dated 6 March 2013 is available from the Business Energy Use team, at the Department of Business, Energy and Industrial Strategy at 1 Victoria Street, London, SW1H 0ET.
- (5) OJ L 275, 25.10.2003, p32. Annex 1 to [Directive 2003/87/EC](#) was replaced by [Directive 2009/29/EC](#) of the European Parliament and of the Council of 23 April 2009 amending [Directive 2003/87/EC](#) so as to improve and extend the greenhouse gas emission allowance trading scheme of the Community (OJ L 140, 5.6.2009, p63), and amended by Regulation (EU) No 421/2014 of the European Parliament and of the Council of 16 April 2014 amending [Directive 2003/87/EC](#) establishing a scheme for greenhouse gas emission allowance trading within the Community, in view of the implementation by 2020 of an international agreement applying a single global market-based measure to international aviation emissions (OJ L 129, 30.4.2014, p1), Regulation (EU) 2017/2392 of the European Parliament and of the Council of 13 December 2017 amending [Directive 2003/87/EC](#) to continue current limitations of scope for aviation activities and to prepare to implement a global market-based measure from 2021 (OJ L 350, 29.12.2017, p7) and Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 amending [Directive 2003/87/EC](#) to enhance cost-effective emission reductions and low carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p3).
- (6) [2008 c.32](#).
- (7) [Directive 2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council [Directive 85/337/EEC](#), European Parliament and Council Directives [2000/60/EC](#), [2001/80/EC](#), [2004/35/EC](#), [2006/12/EC](#), [2008/1/EC](#) and Regulation (EC) No 1013/2006 (OJ L 140, 5.6.2009, p114).

- (i) after “to which the Treaty applies”, there were inserted “or the United Kingdom or Gibraltar”;
 - (ii) in point (a) and in point (j), after “a Member State”, there were inserted “or the United Kingdom”.
-
- (ii) in the definition of “target facility”, for “Annex I activities as defined in the Emissions Trading [Directive 2003/87/EC](#) (as amended from time to time)” there were substituted “Annex 1 activities”.

19th November 2018

Claire Perry
Minister of State
Department for Business, Energy and Industrial
Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to agreements made pursuant to the Climate Change Agreement scheme established under Schedule 6 to the Finance Act 2000 (c.17), including in consequence of the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to both types of agreements that exist under the scheme, being umbrella agreements (which are agreements between the administrator of the scheme and the sector associations) and underlying agreements (which are between the administrator and operators).

The amendments update references to the European Commission's guidelines setting out the definition of an undertaking in difficulty to the latest version of those guidelines (OJ C 249, 31.7.2014, p1).

The amendments also, in consequence of the withdrawal of the United Kingdom from the European Union, correct deficiencies in cross-references to Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a system for greenhouse gas emission allowance trading within the Union and amending Council Directive 96/61/EC (OJ L 275, 25.10.03, p32).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.