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STATUTORY INSTRUMENTS

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**2018 No. 129**

**The National Emission Ceilings Regulations 2018**

**PART 3**

**National emission ceilings, reduction commitments and derogations**

**National emission reduction commitment derogations**

**8.—**(1) Where an inventory of emissions is prepared in accordance with Part 2 that shows the total anthropogenic emissions of a relevant pollutant were above the national emission reduction commitment for that pollutant in a particular year, the Secretary of State may apply a derogation under paragraph (2), (3), or (4).

(2) The Secretary of State is deemed to have complied with the relevant national emission reduction commitment in the year in which the exceedance occurs if the following conditions are met—

- (a) there was an exceptionally cold winter or an exceptionally dry summer in the year that the exceedance occurs;
- (b) the average of the total anthropogenic emissions of the relevant pollutant occurring within the United Kingdom for that year, the preceding year and the following year is lower than or equal to the national emission reduction commitment which would otherwise apply to those years.

(3) The Secretary of State is deemed to have complied with the relevant national emission reduction commitment for a maximum of five years, including the year in which the exceedance occurs, if the following conditions are met—

- (a) the national emission reduction commitment that has been exceeded is set at a level that is more stringent than the cost-effective level identified for the United Kingdom in TSAP 16,
- (b) all cost effective measures have already been implemented in respect of the pollutant for which the national emission reduction commitment has been exceeded,
- (c) in each of the five years in question, the national emission reduction commitment for at least one other relevant pollutant has been met, and
- (d) in each year for which the derogation is claimed, the amount by which emissions exceed the relevant national emission reduction commitment is less than or equal to the amount by which emissions for another relevant pollutant are below the applicable national emission reduction commitment, applying the conversion methodology.

(4) The Secretary of State is deemed to have complied with the relevant national emission reduction commitment for a maximum of three years, including the year in which the exceedance occurs, if the following conditions are met—

- (a) there is a sudden and exceptional interruption or loss of capacity in the national power or heat supply system in the first of the three years in question,
- (b) the Secretary of State publishes at the same time as the relevant inventory of emissions information demonstrating that—

- (i) all reasonable efforts, including the implementation of new measures and policies, have been made to ensure compliance with the national emission reduction commitment, and
  - (ii) the implementation of measures and policies additional to those referred to in paragraph (i) would—
    - (aa) lead to disproportionate costs,
    - (bb) substantially jeopardise national energy security, or
    - (cc) pose a substantial risk of energy poverty to a significant part of the population.
- (5) In paragraph (3)—

“conversion methodology” means the method described in the report TSAP 15, “A Flexibility Mechanism for Complying with Nation Emission Ceilings for Air Pollutants”, published in September 2014 by the International Institute for Applied Systems Analysis in support of the European Commission’s Thematic Strategy on Air Pollution, which sets out a relevant pollutant specific exchange rate and calculation for the purposes of applying the derogation in paragraph (3)(1);

“TSAP 16” means the reports, “Adjusted historic emission data, projections, and optimized emission reduction targets for 2030 – A comparison with COM data 2013”, published in January 2015 by the International Institute for Applied Systems Analysis in support of the European Commission’s Thematic Strategy on Air Pollution, which aims to set out cost effective emission reduction potential for each of the relevant pollutants(2).

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(1) The report can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or accessed at .

(2) The report can be obtained or viewed at the Department for Environment, Food and Rural Affairs, Nobel House, 17 Smith Square, London SW1P 3JR or accessed at [http://www.iiasa.ac.at/web/home/research/researchPrograms/air/policy/TSAP\\_16a.pdf](http://www.iiasa.ac.at/web/home/research/researchPrograms/air/policy/TSAP_16a.pdf) and [http://www.iiasa.ac.at/web/home/research/researchPrograms/air/policy/TSAP\\_16b.pdf](http://www.iiasa.ac.at/web/home/research/researchPrograms/air/policy/TSAP_16b.pdf).