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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 189**

**CLIMATE CHANGE**

**The Carbon Accounting Scheme  
(Scotland) Amendment Regulations 2015**

<i>Made</i>	- - - -	<i>6th May 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>8th May 2015</i>
<i>Coming into force</i>	- -	<i>8th June 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 13(5), 20(1) and 96(2)(a) of the Climate Change (Scotland) Act 2009<sup>(1)</sup> and paragraph 1A of Schedule 2 to the European Communities Act 1972<sup>(2)</sup> and all other powers enabling them to do so.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972<sup>(3)</sup> and it appears to the Scottish Ministers that it is expedient for the references to EU instruments in these Regulations to be construed as references to those instruments as amended from time to time.

**Citation and commencement**

1. These Regulations may be cited as the Carbon Accounting Scheme (Scotland) Amendment Regulations 2015 and come into force on 8th June 2015.

**Amendment of the Carbon Accounting Scheme (Scotland) Regulations 2010**

2.—(1) The Carbon Accounting Scheme (Scotland) Regulations 2010<sup>(4)</sup> are amended in accordance with paragraphs (2), (3) and (4).

(2) In regulation 2 (interpretation)—

(a) in the definition of “cancellation”, for “national cancellation account” substitute “Voluntary Cancellation Account”<sup>(5)</sup>; and

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(1) 2009 asp 12.  
(2) 1972 c.68. Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51) and relevantly amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7) (“the 2008 Act”).  
(3) Section 2(2) was amended by paragraph 15(3) of Schedule 8 to the Scotland Act 1998 (c.46) (which was amended by section 27(4) of the Legislative and Regulatory Reform Act 2006 (c.51) (“the 2006 Act”). Section 2(2) was also amended by section 27(1) of the 2006 Act and Part 1 of the Schedule to the 2008 Act.  
(4) S.I. 2010/216, as amended by S.I. 2011/1043.  
(5) This amendment is required as a result of the relevant amendment of S.I. 2009/1257 by S.I. 2015/775. S.I. 2009/1257 was previously amended by S.I. 2009/3146.

(b) for the definition of “Registries Regulation” substitute—

““Registries Regulation” 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 [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(6);”.

(3) After regulation 8 (credits and debits in connection with the EU ETS) insert—

“**8A.**—(1) The Scottish Ministers shall in respect of 2013 calculate whether any carbon unit is to be credited to or debited from the net Scottish emissions account as a result of the operation of the EU ETS.

(2) The calculation under this regulation must be performed by 30th June 2015.

(3) The Scottish Ministers, when carrying out the calculation mentioned in paragraph (1), must determine—

- (a) for aviation activities, whether the amount of emissions in respect of Scotland from aviation activities in the relevant period for 2013 is more or less than the aviation cap; and
- (b) for other activities, whether the amount of carbon units surrendered in respect of Scotland as a result of the operation of the EU ETS in the relevant period for 2013 is more or less than the fixed installation cap.

(4) Where the figure for emissions from aviation activities in respect of Scotland in the 2013 national inventory is—

- (a) more than the aviation cap, an amount of carbon units equal to the excess is to be credited to the net Scottish emissions account for 2013; or
- (b) less than the aviation cap, an amount of carbon units equal to the shortfall is to be debited from the net Scottish emissions account for 2013.

(5) Where the amount of carbon units surrendered in 2013 in respect of other activities is—

- (a) more than the fixed installation cap for 2013, an amount of carbon units equal to the excess is to be credited to the net Scottish emissions account for 2013; or
- (b) less than the fixed installation cap for 2013, an amount of carbon units equal to the shortfall is to be debited from the net Scottish emissions account for 2013.

(6) In this regulation—

“2013 national inventory” means the “2013 UK Greenhouse Gas Emissions, Final Figures” as published by the Department of Energy and Climate Change on 3rd February 2015(7);

“Annex I” means Annex I of Directive 2003/87 of the European Parliament and of the Council of 13th October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council [Directive 96/61/EC](#)(8);

“aviation activity” means an aviation activity listed in Annex I;

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(6) OJ L 122, 3.5.2013, p.1.

(7) <https://www.gov.uk/government/statistics/final-uk-emissions-estimates>.

(8) OJ L 275, 25.10.2003, p.32 as amended by [Directive 2004/101/EC](#) (OJ L 338, 13.11.2004, p.18), [Directive 2008/101/EC](#) (OJ L 8, 13.11.2009, p.3), Regulation (EC) No 219/2009 (OJ L 87, 31.3.2009, p.109), [Directive 2009/29/EC](#) (OJ L 140, 5.6.2009, p.63) Decision No 1359/2013/EU (OJ L 343, 19.12.2013, p.1) and Regulation (EU) No 421/2014 (OJ L 129, 30.4.2014, p.1).

“aviation cap” means the sum of the domestic aviation cap plus the international aviation cap;

“domestic aviation cap” means 443,255;

“fixed installation cap” means 16,325,296;

“international aviation cap” means 921,758;

“other activities” means activities listed in Annex I other than aviation activity; and

“relevant period” means for 2013, the 16 months preceding 1st May 2014.”.

(4) In regulation 9 (register of transactions), after paragraph (3) insert—

“(4) In relation to carbon units to be credited or debited under regulation 8A, the register must contain details of the—

(a) date on which the calculation under regulation 8A(1) was performed;

(b) date of surrender;

(c) figures used in that calculation; and

(d) amount of units credited to or debited from the net Scottish emissions account.”.

St Andrew’s House,  
Edinburgh  
6th May 2015

*AILEEN MCLEOD*  
A member of the Scottish Government

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Carbon Accounting Scheme (Scotland) Regulations 2010 (“the 2010 Regulations”), which make provision about carbon units and carbon accounting in the years 2010 to 2012 for the purposes of Part 1 of the Climate Change (Scotland) Act 2009 (the “2009 Act”).

Directive 2003/87 of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council [Directive 96/61/EC](#) (the “ETS Directive”), has been amended, in particular, so as to include aviation activities from 1st January 2012.

The amendment to the definition of “cancellation” in regulation 2 is required to reflect the change of name of the relevant account in the UK Registry referred to in the Carbon Accounting Regulations 2009 ([S.I. 2009/1257](#)) which was made by the Carbon Accounting (2013-2017 Budgetary Period) Regulations 2015 ([S.I. 2015/775](#)). The definition of “Registries Regulation” is also updated.

Regulation 8A is inserted into the 2010 Regulations so as to provide for 2013 a method for determining whether a carbon unit is to be credited to or debited from the net Scottish emissions account (see section 13 of the 2009 Act) in respect of the relevant period for that year. The relevant period for 2013 is the 16 months preceding 1st May 2014. The calculation for 2013 differs from calculations for previous years in that aviation emissions have been included for 2013.

Regulation 9(4) is inserted into the 2010 Regulations so as to provide what information is to be included in the register for 2013.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.