



Finance Act 2019

2019 CHAPTER 1

PART 3

CARBON EMISSIONS TAX

Introductory

69 Carbon emissions tax

- (1) A tax called “carbon emissions tax” is to be charged in accordance with this Part.
- (2) The Commissioners are responsible for the collection and management of carbon emissions tax.

Charge to tax

70 Charge to carbon emissions tax

- (1) Carbon emissions tax is charged, in relation to a regulated installation, if the amount of reported carbon emissions for a reporting period exceeds the emissions allowance for the period.
- (2) The amount of “taxable carbon emissions” in relation to the installation for the reporting period is the amount of the excess.
- (3) Carbon emissions tax is charged on taxable carbon emissions at the rate of £16 per tonne of carbon dioxide equivalent.

71 “Reported carbon emissions”

- (1) The amount of “reported carbon emissions” in relation to an installation for a reporting period is the total amount of emissions from the installation, in tonnes of carbon dioxide equivalent, that is stated—

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- (a) in the emissions determination (or, if there is more than one, the latest emissions determination) for the period, or
 - (b) if there is no such determination, in the emissions report for the period.
- (2) In subsection (1), “emissions determination” means the regulator’s estimate of the total amount of emissions from the installation for the period, determined in accordance with—
- (a) article 70 of the Monitoring and Reporting Regulation, or
 - (b) regulation 44 of the Emissions Regulations.

72 “Emissions report” and “reporting period”

- (1) In this Part, “emissions report” means a report of emissions that is submitted to the regulator for the purpose of complying with—
- (a) the monitoring and reporting requirements or, in the case of an excluded installation, the monitoring and reporting conditions, or
 - (b) a requirement of a notice of surrender or of a revocation notice.
- (2) “Reporting period”, in relation to a regulated installation, means—
- (a) a scheme year, or
 - (b) such shorter period for which an emissions report for the installation is required by a notice of surrender or a revocation notice.

73 “Emissions allowance”

The “emissions allowance”, in relation to an installation for a reporting period, is the amount of emissions, in tonnes of carbon dioxide equivalent, specified by or under, or determined in accordance with, regulations made by the Commissioners under this section.

74 Liability to pay carbon emissions tax

- (1) Carbon emissions tax in relation to an installation is payable by the person who, at the end of the reporting date, holds the permit for the installation.
- (2) The “reporting date”, in relation to a reporting period, means the day on which the emissions report for that period is required to be submitted to the regulator under the Emissions Regulations.

Administration etc.

75 Power to make further provision about carbon emissions tax

- (1) The Commissioners may by regulations—
- (a) make provision about the assessment, payment, collection and recovery of carbon emissions tax, including provision about the recovery of overpayments;
 - (b) require persons to keep, for purposes connected with carbon emissions tax, records of specified matters, and to preserve those records for a specified period;

- (c) make provision for the review of, and a right of appeal against, specified decisions of HMRC in connection with carbon emissions tax;
 - (d) make provision about the enforcement of carbon emissions tax;
 - (e) permit or require the sharing of information between HMRC, authorities and regulators for purposes in connection with carbon emissions tax;
 - (f) make provision about the form, manner and content of any notice, application or other communication with HMRC in connection with carbon emissions tax (including provision about communications in electronic form);
 - (g) make provision in relation to cases where an individual liable for carbon emissions tax dies or becomes incapacitated, or where a person (whether or not an individual) is subject to an insolvency procedure.
- (2) The Commissioners may by regulations make provision for purposes in connection with carbon emissions tax—
- (a) about the submission of emissions reports to a regulator;
 - (b) about emissions determinations, including provision permitting or requiring a regulator to make an emissions determination in specified circumstances;
 - (c) specifying conditions to be included in a permit granted by a regulator;
 - (d) for the review of, and a right of appeal against, specified decisions of a regulator;
 - (e) about the performance of a function of a regulator;
 - (f) about the form, manner and content of any notice, application or other communication with a regulator (including provision about communications in electronic form).
- (3) Regulations under this section may, in particular—
- (a) make provision that is equivalent to, or applies with or without modification, any provision of an enactment relating to tax;
 - (b) amend the Monitoring and Reporting Regulation or the Verification Regulation.

76 Consequential provision

- (1) In section 1 of the Provisional Collection of Taxes Act 1968 (temporary statutory effect of House of Commons resolutions), in subsection (1), after “petroleum revenue tax” insert “, carbon emissions tax,”.
- (2) In regulation 52 of the Emissions Regulations (penalty for carrying out a regulated activity without a permit), after paragraph (2) insert—
- “(2A) In paragraph (2), the reference to “costs” includes a reference to carbon emissions tax.”
- (3) Section 4(1) of the European Union (Withdrawal) Act 2018 does not apply, for the purposes of carbon emissions tax, in relation to any rights, powers, liabilities, obligations, restrictions, remedies and procedures so far as they arise under—
- (a) Council Directive [2008/118/EC](#) of 16 December 2008 concerning the general arrangements for excise duty, or
 - (b) Council Directive [2003/96/EC](#) of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity.

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- (4) The Commissioners may by regulations make such provision as they consider appropriate in consequence of this Part.
- (5) Regulations under subsection (4) may amend, repeal or revoke any enactment (whenever passed or made).

General

77 Interpretation

- (1) In this Part—

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“emissions allowance” has the meaning given by section 73;

“emissions determination” has the meaning given by section 71;

“the Emissions Regulations” means the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038);

“emissions report” has the meaning given by section 72;

“enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

“HMRC” means Her Majesty’s Revenue and Customs;

“installation” has the meaning given by regulation 3 of the Emissions Regulations (and references to an installation include references to an offshore installation, as defined in those Regulations);

“the Monitoring and Reporting Regulation” means [Commission Regulation \(EU\) No 601/2012](#) of 21 June 2012 on the monitoring and reporting of greenhouse gas emissions pursuant to Directive [2003/87/EC](#) of the European Parliament and of the Council (as amended from time to time);

“operator” has the meaning given by regulation 3 of the Emissions Regulations (as read with Schedule 1 to those Regulations);

“reporting period” has the meaning given by section 72 (subject to section 79(4));

“specified” means specified in regulations under this Part;

“the Verification Regulation” means [Commission Regulation \(EU\) No 600/2012](#) of 21 June 2012 on the verification of greenhouse gas emission reports and tonne-kilometre reports and the accreditation of verifiers pursuant to Directive [2003/87/EC](#) of the European Parliament and of the Council (as amended from time to time).

- (2) In this Part, the following terms have the meaning given by regulation 3 of the Emissions Regulations—

“authority”,

“emissions”,

“excluded installation”,

“monitoring and reporting conditions”,

“monitoring and reporting requirements”,

“notice of surrender”,

“permit”,

“regulator”,

“revocation notice”,
“scheme year”, and
“tonne of carbon dioxide equivalent”.

- (3) An “installation” is a “regulated installation” for a reporting period if, at any time during the period, the operator holds a permit for the installation.
- (4) References in this Part to the Verification Regulation or the Monitoring and Reporting Regulation include references to any EU regulation which replaces either of them and forms part of the law of the United Kingdom as a result of section 3 of the European Union (Withdrawal) Act 2018 (and accordingly the reference in section 71(2)(a) to article 70 of the Monitoring and Reporting Regulation includes a reference to the corresponding provision in any such replacement of that Regulation).

78 Regulations

- (1) Regulations under section 73, 75 or 76 may—
 - (a) make provision conferring functions or discretions on an authority, a regulator or any other person;
 - (b) impose charges as a means of recovering costs incurred by a person in exercising a function conferred under the regulations;
 - (c) make provision by reference to matters determined or published by HMRC, the Secretary of State, an authority or a regulator (whether before or after the regulations are made);
 - (d) make different provision for different purposes;
 - (e) include incidental, consequential, supplementary, transitional or transitory provision.
- (2) Regulations under this Part are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under section 76(4) that makes provision amending or repealing any provision of an Act of Parliament may not be made unless a draft of the instrument has been laid before and approved by a resolution of the House of Commons.
- (4) Any other statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of the House of Commons.
- (5) But subsection (4) does not apply to a statutory instrument containing only regulations under section 79 (commencement).

79 Commencement and transitional provision

- (1) This Part comes into force on such day as the Commissioners may by regulations appoint.
- (2) Regulations under subsection (1) may—
 - (a) appoint different days for different purposes;
 - (b) include transitional or transitory provision.
- (3) Section 72(2) (reporting period) is subject to subsection (4).
- (4) For the purposes of the application of this Part in relation to the scheme year 2019, the “reporting period”, in relation to a regulated installation, means—

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- (a) the period beginning with 1 April 2019 and ending with 31 December 2019, or
 - (b) such shorter period beginning on or after 1 April 2019 for which an emissions report is required by a notice of surrender or a revocation notice.
- (5) For the purposes of the scheme year 2019, the provisions of the Emissions Regulations, the Monitoring and Reporting Regulation and the Verification Regulation apply, and anything done under those provisions has effect—
- (a) as if, for the purposes of reporting or determining emissions from an installation, references to a period corresponding to a scheme year were references to the reporting period for 2019 (and accordingly as if references to a period beginning with 1 January were references to a period beginning with 1 April 2019), and
 - (b) with such other modifications as are necessary for the purposes of the charge to carbon emissions tax for a reporting period beginning in 2019.