
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about carbon units and carbon accounting for the purposes of Part 1 of the Climate Change (Scotland) Act 2009 (“the Act”).

Regulation 2 sets out various definitions for the purposes of the Regulations.

Regulation 3 provides that references in the Regulations to Community instruments are to those instruments as amended from time to time.

Regulation 4 specifies the kinds of carbon unit that are to count as carbon units for the purposes of the Act, and assigns a value to those units.

Regulation 5 places a duty on the Scottish Ministers to instruct the registry administrator to open a Scottish credit account in the UK registry.

The UK registry is operated on behalf of the Secretary of State as the competent authority for the purposes of [Commission Regulation \(EC\) No 2216/2004](#) for a standardised and secured system of registries pursuant to Directive [2003/87/EC](#) of the European Parliament and of the Council and Decision No [280/2004/EC](#) of the European Parliament and of the Council (O.J. No. L 386, 29.12.2004) (the “Registries Regulation”).

The Scottish Ministers may only instruct the transfer of a carbon unit from the Scottish credit account to one of two accounts in the UK registry, namely the national cancellation account, or the credit account (the “UK credit account”) opened by the Secretary of State under regulation 4 of the Carbon Accounting Regulations 2009 for the purpose of holding carbon units which are to be credited to net UK carbon account.

Regulation 6 provides that the Scottish Ministers must credit a carbon unit to the net Scottish emissions account (“NSEA”) where the unit is transferred from the Scottish credit account to the UK credit account, and a Minister of the Crown declares under regulation 5 of the Carbon Accounting Regulations 2009 that the unit is credited to the net UK carbon account.

It also provides that where no such declaration is made, then the Scottish Ministers must instruct the registry administrator to transfer the unit to the Scottish credit account. The registry administrator must deal with that instruction in accordance with regulation 4(3) and (4) of the Carbon Accounting Regulations 2009.

Regulation 7 provides that a carbon unit is credited to the NSEA if a person transfers it to the Scottish credit account, and the Scottish Ministers declare that it is to be credited to the NSEA. It has the effect that a carbon unit may not be counted as a credit if it has been used to offset emissions which are not attributable to Scotland. It also provides that a carbon unit credited to the net Scottish emissions account must first have been cancelled.

Regulation 8 provides for the Scottish Ministers to calculate for each year in the period 2010-2012 whether or not any carbon units are to be credited to or debited from the NSEA as a result of the operation of the European Union emissions trading scheme. Units are to be credited if installations in Scotland use fewer units than are permitted under the EU ETS (the “specified amount”), or to be debited if installations use more units than the specified amount.

Regulation 9 places a duty on the Scottish Ministers to maintain a register containing information in respect of carbon units credited to and debited from the NSEA.

Regulation 10 provides that the Scottish Ministers may delegate any of the functions conferred on them by the Regulations to SEPA.

Status: *This is the original version (as it was originally made).*

A Regulatory Impact Assessment has not been produced for these Regulations as they will have no direct impact on businesses, charities or the voluntary sector.