

## SCHEDULE 6

Article 5

### Changes to participants

## PART 1

### Public bodies: government

#### SECTION 1

*Government departments, Northern Ireland departments, the Scottish Ministers and the Welsh Assembly Government*

#### **Application of Part 1**

1.—(1) Where the changes described in sections 2 to 5 of this Part occur in a year of a phase (“year 1”) in relation to a participant which is or includes—

- (a) a government department or part of it;
- (b) a relevant Northern Ireland department or part of it,

such a participant must comply with the requirements in those sections.

(2) Under sub-paragraph (1)(b), in relation to a relevant Northern Ireland department, reference in paragraphs 7 and 11 to the Secretary of State includes reference to the relevant department.

(3) Where the changes described in sections 3 to 5 occur in year 1 in relation to a participant which is or includes the Scottish Ministers or part of that body, such a participant must comply with the requirements in those sections.

(4) Under sub-paragraph (3), in relation to the Scottish Ministers, reference to—

- (a) the Secretary of State in paragraph 11 includes the Scottish Ministers;
- (b) a department in paragraph 12 includes those Ministers or part of that body.

(5) Where the changes described in section 4 or 5 occur in year 1 in relation to a participant which is or includes the Welsh Assembly Government or part of that body, such a participant must comply with the requirements in those sections.

(6) Under sub-paragraph (5), in relation to the Welsh Assembly Government, reference to a department in paragraph 12 includes the Welsh Assembly Government or part of that body.

#### **Notifications and applications: time to comply and the administrator**

2.—(1) A notification or application for registration required under this Part must be made using the Registry and within 3 months of the change occurring.

(2) Subject to receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

#### SECTION 2

*Creation of new departments*

#### **Creation of a new department**

3. This section applies where—

- (a) from part of a participant (“A”) and part of another participant (“B”), a department (“C”) is created in year 1; and
- (b) A and B continue as participants.

**Creation of a new department: year 1**

- 4. In year 1—
  - (a) C must—
    - (i) apply for registration as a participant in accordance with article 11; and
    - (ii) comply with Part 5 as if C existed for the whole of year 1;
  - (b) A and B must comply with this Order as if C had not been created.

**Creation of a new department: year 2**

- 5. In the year after year 1 (“year 2”)—
  - (a) C must comply with Parts 4 and 5 of this Order; and
  - (b) A and B must comply with this Order as if C had not been created.

**Creation of a new department: after year 2**

- 6.—(1) In the years after year 2—
  - (a) C must comply with this Order as applicable to the years after year 2; and
  - (b) A and B must comply with this Order as applicable to the years after year 2 but where A and B do not include C.
- (2) In the year after year 2, where A or B have a residual measurement list, that list must be amended to exclude any residual supplies of C.

**Deemed supplies of the new department**

- 7.—(1) For the purposes of this section, the Secretary of State may declare in writing that a supply of electricity, gas or fuel—
  - (a) to A or B is deemed to be a supply to C;
  - (b) to C is deemed to be a supply to A or B.
- (2) A declaration made under sub-paragraph (1) must be provided by the Secretary of State to the administrator as soon as possible.

*SECTION 3*

*Transfers of parts of government departments,  
Northern Ireland departments or the Scottish Ministers*

**Transfer of part of a department to another department**

- 8. This section applies where from a participant (“D”), a part (“E”) transfers to another participant (“F”) in year 1 (“the transfer”).

**Transfers: year 1**

- 9. In year 1, D and F must—

- (a) notify the administrator of—
  - (i) the transfer; and
  - (ii) as soon as possible, the percentage of the emissions of D which are attributable to E;
- (b) comply with this Order as if the transfer had not occurred.

### **Transfers: year 2**

**10.**—(1) In the year after year 1 (“year 2”), where D has a residual measurement list, it must amend that list to exclude any residual supplies of E.

- (2) In year 2 where—
  - (a) D and F have residual measurement lists; and
  - (b) residual supplies of E were included in D’s list,

F must amend its list to include the residual supplies of E which were in D’s list.

- (3) In year 2 where—
  - (a) D has a residual measurement list and residual supplies of E were included in D’s list; and
  - (b) F does not have a residual measurement list,

F must compile a residual measurement list to include the residual supplies of E which were in D’s list.

### **Deemed supplies**

**11.**—(1) For the purposes of this section, the Secretary of State may declare in writing that a supply of electricity, gas or fuel—

- (a) to D which is attributable to E is deemed to be a supply to F;
- (b) to F which is attributable to E is deemed to be a supply to D.

(2) A declaration made under sub-paragraph (1) must be provided by the Secretary of State to the administrator as soon as possible.

## *SECTION 4*

### *Mergers in respect of government departments, Northern Ireland departments, the Scottish Ministers or the Welsh Assembly Government*

### **Mergers of departments**

**12.**—(1) Sub-paragraphs (2) to (5) apply where a participant (“G”) merges with another participant (“H”) in year 1 (“the merger”) to form a new department (“J”).

- (2) J must notify the administrator of the merger.
- (3) Where G or H had a residual measurement list before the merger, J must compile such a list from the residual supplies of G or H or, as appropriate, both.
- (4) J must—
  - (a) apply for registration as a participant in accordance with article 11; and
  - (b) comply with this Order as if J existed for the whole of year 1.

(5) Subject to the registration of J, the administrator must cancel the registration of G and H for the remainder of the phase.

## SECTION 5

### *Government decisions and separate participation*

#### **Government decisions**

13. This section applies where a government decision is made in respect of a participant (“K”) that a part of K is a separate participant (“L”).

#### **Separate participants: year 1**

14. In year 1,—

(a) L must—

(i) apply for registration as a participant in accordance with article 11; and

(ii) comply with Parts 4, 5 and 7 as if L existed for the whole of year 1;

(b) K must comply with this Order as if the government decision had not been made.

## PART 2

### Other public bodies

#### **Application of Part 2**

1. This Part applies where the change described occurs in a year of a phase (“year 1”) and to a participant which is or includes a public body other than a public body to which Part 1 applies.

#### **Notifications and applications: time to comply and the administrator**

2.—(1) The notification and application for registration required under this Part must be made using the Registry and within 3 months of the change occurring.

(2) Subject to receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

#### **Mergers of public bodies**

3.—(1) Sub-paragraphs (2) to (5) apply where a participant (“A”) merges with another participant (“B”) in year 1 (“the merger”) to form a new public body (“C”).

(2) C must notify the administrator of the merger.

(3) Where A or B had a residual measurement list before the merger, C must compile such a list from the residual supplies of A or B or, as appropriate, both.

(4) C must—

(a) apply for registration as a participant in accordance with article 11; and

(b) comply with this Order as if C existed for the whole of year 1.

(5) Subject to the registration of C, the administrator must cancel the registration of A and B for the remainder of the phase.

## PART 3

### Undertakings

#### SECTION 1

##### *Post-qualification period*

#### **Time for applications**

1. Where an application for registration is required under this section(1), that application must be made by the time provided under article 12.

#### **Significant group undertakings leaving a group but not joining another group**

2.—(1) Sub-paragraph (2) applies to a group (“A”) where the following change occurs in the post-qualification period—

- (a) a significant group undertaking (“B”) leaves A; and
- (b) B does not become a member of another group.

(2) In respect of the change—

- (a) B must—
  - (i) apply to be registered as a participant in accordance with article 11; and
  - (ii) when doing so notify the administrator that it was a member of A and when it ceased to be so;
- (b) A must—
  - (i) apply to be registered as a participant in accordance with article 11;
  - (ii) when doing so notify the administrator that B was a member of A and when it ceased to be so; and
  - (iii) in respect of the information required under paragraph 6 of Schedule 5, include the information which applied to B in the qualification year.

#### **Joining of undertakings with a group which is not required to register as a participant**

3.—(1) Sub-paragraph (2) applies to a group or undertaking (“C”) where the following change occurs in the post-qualification period—

- (a) C becomes a significant group undertaking as a member of another group (“D”); and
- (b) D is not required to register under article 24.

(2) In respect of the change—

- (a) D must—
  - (i) apply for registration as a participant in accordance with article 11; and
  - (ii) when doing so notify the administrator that C is a member of D and when that occurred;
- (b) C must not apply for registration as a participant;
- (c) D is only a participant in respect of C; and

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(1) This section applies to an undertaking or a group of undertakings further to article 27(2).

- (d) D must with the application for registration provide in respect of the qualification year the information in sub-paragraph (3).
- (3) The information referred to in sub-paragraph (2)—
  - (a) a list of the settled half hourly meters which measured the supply of electricity to D and the identification numbers of those meters; and
  - (b) in respect of the supply of electricity to D measured by settled half hourly meters and non-settled half hourly meters—
    - (i) whether or not the supply equalled or exceeded 3000 MWh and, if it did, the amount of the supply; and
    - (ii) if the supply equalled or exceeded 6000 MWh—
      - (aa) why D was not required to register as a participant; and
      - (bb) which deductions from a supply in section 4 and, if applicable, section 5 of Schedule 1 are applicable to the supply.

#### **Joining of undertakings with a group which is required to register as a participant**

- 4.—(1) Sub-paragraphs (2) to (4) apply to a group or undertaking (“E”) where the following change occurs in the post-qualification period—
- (a) E becomes a significant group undertaking as a member of another group (“F”); and
  - (b) F is required to register under article 24 but has not applied for registration.
- (2) In respect of the change F must—
- (a) apply for registration as a participant in accordance with article 11;
  - (b) when doing so notify the administrator that E is a member of F and when that occurred;
  - (c) in that notification F must inform the administrator whether or not F requests that E may apply for registration as a separate participant; and
  - (d) in respect of the information required under paragraph 6 of Schedule 5, include the information which applied to E in the qualification year.
- (3) Where a request is made under sub-paragraph (2)(c), that must be treated as a request under article 25(2) and paragraphs (3) and (4) of that article apply.
- (4) Except where sub-paragraph (3) applies, E must not apply for registration as a participant.

#### **Significant group undertakings transferring between groups**

- 5.—(1) Sub-paragraphs (2) to (4) apply to a significant group undertaking (“G”) of a group (“H”) where—
- (a) G becomes a significant group undertaking as a member of another group (“J”) in the post-qualification period; and
  - (b) H and J are groups to which article 27(2) applies.
- (2) In respect of the change H and J must—
- (a) apply for registration as participants in accordance with article 11;
  - (b) when doing so notify the administrator of the change and when it occurred; and
  - (c) in the notification by J, it must inform the administrator whether or not J requests that G may apply for registration as a separate participant.
- (3) Where a request is made under sub-paragraph (2)(c), that must be treated as a request under article 25(2) and paragraphs (3) to (6) of that article apply.

- (4) In respect of the information required under paragraph 6 of Schedule 5—
- (a) H must include the information which applied to G in the qualification year;
  - (b) J must not include that information.

## SECTION 2

### *Footprint years and annual reporting years*

#### **Application and general changes during footprint years and annual reporting years**

- 6.—(1) This section(2) does not apply to a participant where—
- (a) any of the changes occurs to that participant in the post-qualification period which falls within a footprint year; and
  - (b) the participant has complied with section 1 of this Part in respect of those changes.

(2) Where in respect of the year in which a change occurs, a participant has a general or a group CCA exemption, a requirement imposed on a participant under this section does not apply to such a participant.

- (3) Subject to sub-paragraph (4), where a participant is a group—
- (a) the members of the group are those members from time to time during the year;
  - (b) a footprint report and CRC supplies must be determined in relation to the supplies of electricity, gas or fuel to members of the group only for such time as they are members during the year.

(4) Except in respect of paragraph 7(1) or (3), a change as described in this section where it does not occur on the first day of the year of a phase, is deemed to take place on that day.

#### **Notifications and applications: time to comply and the administrator**

7.—(1) A notification or application for registration required under this section must be made using the Registry and within 3 months of the change occurring.

(2) Subject to receipt of such notification or application for registration, the administrator must amend the information it holds in respect of the relevant participants.

(3) Where under this section a participant must compile or amend a residual measurement list, that compilation or amendment must be made within 3 months of the change occurring.

#### **Determinations**

8. The administrator may make a determination(3)—
- (a) whether any change as described in this section has occurred;
  - (b) whether a notification or application for registration is required as provided under this section.

#### **Significant group undertakings becoming participants**

- 9.—(1) Sub-paragraphs (2) and (3) apply where the following change occurs—
- (a) a participant (“A”) consists of a group;

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(2) This section applies to an undertaking or a group of undertakings in respect of changes which occur in a footprint year (article 46) or in an annual reporting year (article 51).

(3) Such a determination must be made in accordance with article 74(2).

- (b) a significant group undertaking (“B”) leaves that group; and
  - (c) B does not become a member of another group.
- (2) Subject to sub-paragraph (4), in respect of the change—
- (a) B must apply for registration as a participant in accordance with article 11;
  - (b) A and B must notify the administrator of the change and when it occurred;
  - (c) where the change occurs in a footprint year, B must comply with Part 4 of this Order as if B was a participant for the whole of the year in which the change occurs.
- (3) Subject to sub-paragraph (4), where the change occurs in an annual reporting year—
- (a) B must provide an annual report in respect of the annual reporting year as if B was a participant for the whole of that year; and
  - (b) where A has a residual measurement list (“list A”) which includes the residual supplies of B—
    - (i) list A must be amended to exclude the residual supplies of B;
    - (ii) B must compile a residual measurement list from B’s residual supplies in list A.
- (4) Where A has a member CCA exemption in respect of B—
- (a) sub-paragraph (2)(a) applies but otherwise sub-paragraphs (2) and (3) do not apply to B;
  - (b) where B is—
    - (i) a group of undertakings, B has a group CCA exemption;
    - (ii) not such a group, B has a general CCA exemption;and
  - (c) subject to article 38, B is exempt from Parts 4 to 7 of this Order for the phase where the applicable exemption applies to B.

**Joining of a participant or significant group undertaking with a non-participant**

- 10.**—(1) Sub-paragraphs (2) and (3) apply where the following change occurs—
- (a) a participant or significant group undertaking (“C”) of a participant becomes a member of a group (“D”); and
  - (b) D is not a participant.
- (2) Subject to sub-paragraph (6), in respect of the change—
- (a) D must apply for registration as a participant in accordance with article 11;
  - (b) where C is a participant, C must notify the administrator of the change and when it occurred;
  - (c) where C is a significant group undertaking as a member of a participant, that participant must notify the administrator of the change and when it occurred;
  - (d) where the change occurs in a footprint year, D must comply with Part 4 of this Order but only in respect of those supplies of electricity, gas or fuel which relate to C and as if C was part of D for the whole of the year in which the change occurs;
  - (e) C is a significant group undertaking as a member of D for the phase and as if C was a member of D for the whole of the year in which the change occurs;
  - (f) subject to the registration of D, and where C is a participant, the administrator must cancel the registration of C for the remainder of the phase.
- (3) Subject to sub-paragraph (6), where the change occurs in an annual reporting year—



- (a) D must provide an annual report in respect of the year but only in respect of those emissions which relate to C and as if C was a member of D for the whole of the year;
  - (b) where C is a participant and C had a residual measurement list before the change occurred, D must compile such a list from the residual supplies of C.
- (4) Subject to sub-paragraph (6), sub-paragraph (5) applies where—
- (a) the change occurs in an annual reporting year; and
  - (b) C is a significant group undertaking of a participant and that participant has a residual measurement list (“list A”) which includes residual supplies of C.
- (5) Where this sub-paragraph applies—
- (a) list A must be amended to exclude the residual supplies of C;
  - (b) D must compile a residual measurement list from the residual supplies of C in list A.
- (6) Where C is a significant group undertaking of a participant and that participant has a member CCA exemption in respect of C—
- (a) sub-paragraph (2) applies except paragraphs (b) and (d);
  - (b) sub-paragraphs (3) to (5) do not apply to D;
  - (c) where D is—
    - (i) a group of undertakings, D has a group CCA exemption;
    - (ii) not such a group, D has a general CCA exemption;and
  - (d) subject to article 38, D is exempt from Parts 4 to 7 of this Order for the phase where the applicable exemption applies to D.

### **Joining of a participant as a member of another participant**

- 11.**—(1) Sub-paragraphs (2) to (4) apply where the following change occurs—
- (a) a participant (“E”) becomes a member of a group (“F”); and
  - (b) F is a participant.
- (2) In respect of the change—
- (a) E and F must notify the administrator of the change and when it occurred; and
  - (b) in the notification by F, F must inform the administrator whether or not F requests that E continues as a separate participant.
- (3) Where—
- (a) F requests that E continues as a separate participant; and
  - (b) the administrator agrees and so notifies E and F,
- E and F continue as separate participants.
- (4) Where E and F do not continue as separate participants—
- (a) E is a significant group undertaking as a member of F for the phase and as if E was a member of F for the whole of the year in which the change occurs;
  - (b) subject to the administrator being satisfied that E and F are complying with this Order, the administrator must cancel the registration of E for the remainder of the phase.
- (5) Subject to sub-paragraph (7), sub-paragraph (6) applies where the change occurs in an annual reporting year and E and F do not continue as separate participants.
- (6) Where this sub-paragraph applies and—

- (a) where—
    - (i) F did not have a residual measurement list; and
    - (ii) E did have a residual measurement list, E's residual measurement list becomes F's list;
  - (b) where E and F each had a residual measurement list before the change occurred, F must amend its list to include the residual supplies from E's list.
- (7) Where E and F do not continue as separate participants and E had a general or group CCA exemption—
- (a) F has a member CCA exemption in respect of E; and
  - (b) sub-paragraph (6) does not apply.

**Significant group undertakings transferring to another participant**

- 12.**—(1) Sub-paragraphs (2) to (5) apply where the following change occurs—
- (a) a participant (“G”) consists of a group;
  - (b) a significant group undertaking (“H”) which was a member of G becomes a significant group undertaking as a member of another participant (“J”).
- (2) In respect of the change—
- (a) G and J must notify the administrator of the change and when it occurred;
  - (b) in the notification of J, J must inform the administrator whether or not J requests that H may apply for registration as a separate participant; and
  - (c) if such a request is made, H may make an application to be a participant and if it does, must do so in accordance with article 11.
- (3) Where H is registered as a participant separate from J, H must comply with Part 4 as if H had been a participant for the whole of the year in which the change occurs.
- (4) Where H is not registered as a separate participant, H is treated as if it was a significant group undertaking as a member of J for the whole of the year in which the change occurs.
- (5) Where the change occurs in an annual reporting year and—
- (a) G has a residual measurement list, G must amend its residual measurement list to exclude any residual supplies of H;
  - (b) subject to sub-paragraph (6), where H is not registered as a separate participant and—
    - (i) where—
      - (aa) J does not have a residual measurement list; and
      - (bb) G has a residual measurement list including residual supplies of H, J must compile a residual measurement list from those residual supplies of H;
    - (ii) where J has a residual measurement list, J must amend its list to include the residual supplies of H.
- (6) Sub-paragraph (5)(b) does not apply where—
- (a) H is not registered as a separate participant; and
  - (b) G has a group CCA exemption or had a member CCA exemption in respect of H.
- (7) Where G has a group CCA exemption or had a member CCA exemption in respect of H, J has a member CCA exemption in respect of H.

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**Draft Legislation:** *This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The CRC Energy Efficiency Scheme Order 2010 No. 768*