
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations appoint the Environment Agency to administer climate change agreements entered into under Part IV of Schedule 6 to the Finance Act 2000 and set out procedures for the administration of climate change agreements. These regulations come into force on 1st October 2012.

Regulation 3 appoints the Environment Agency to administer the climate change agreements scheme.

Regulation 4 requires the administrator to establish an electronic register for administering climate change agreements and provides that the administrator may establish rules in relation to the operation of the register.

Regulation 5 makes provision as to the setting up of an account in the register for a party to a climate change agreement and makes provision as to the functions of the register.

Regulations 6 provides for security and access to the register.

Regulation 7 provides for preventing or suspending use of the register.

Regulation 8 sets out when an account must be closed and that any emissions recorded in the account at its closure shall be cancelled.

Regulation 9 sets out the information the administrator is required to publish and by which dates.

Regulation 10 sets out the checks that the administrator is required to undertake before entering into climate change agreement. It provides that in respect of both umbrella agreements and underlying agreements, the administrator must check that the facilities are all facilities as defined in Schedule 6. It also provides that, in respect of underlying agreements, the administrator must check the identity of the other party to the agreement and that the activities undertaken by the facility or facilities covered by the underlying agreement all fall within the umbrella agreement. If a facility was previously covered by another underlying agreement, the administrator must also check that the targets had been met under the previous underlying agreement and that there were no outstanding penalties or charges under the previous underlying agreement.

Regulation 11 provides that the administrator must obtain the approval of the Secretary of State to the form of a climate change agreement before entering into it and that an umbrella agreement must contain a sector commitment.

Regulation 12 sets out the terms to be included in an underlying agreement relating to failure to meet a target. These provisions enable a target unit which has failed to meet its target for a target period to pay a sum of money, calculated by reference to the difference between its emissions and its target for the target period, in order to retain its Climate Change Levy discount. If the administrator finds that the target unit has failed to meet its target at any time beginning with 1st May in the following the end of a target period and ending immediately before the next certification period, the calculation of the fee takes any surplus into account. If the administrator finds that the target unit has failed to meet its target at any other time, any surplus is not taken into account.

Regulation 13 provides that a surplus used in a calculation under regulation 12 to reduce the amount by which an account holder has exceeded its target must be deducted by the administrator after a notice that the target unit has failed to meet its target has been served.

Regulation 14 sets out the terms to be included in an underlying agreement regarding the provision of information.

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

Regulations 15 sets out the circumstances in which the administrator may impose a financial penalty on a party to an underlying agreement and sets out the calculation for determining the amount of the penalty.

Regulation 16 requires the administrator to give notice of the imposition of a financial penalty and details the information to be included in the notice.

Regulation 17 sets out the circumstances in which a climate change agreement must be terminated.

Regulation 18 sets out the circumstances in which a climate change agreement may be terminated.

Regulation 19 requires the administrator to give a notice of termination if it decides to terminate an agreement and details the date on which a termination takes effect.

Regulation 20 sets out the right of appeal to the First-tier Tribunal against a decision of the administrator to terminate an agreement, a decision to impose a financial penalty and against any decision of the administrator under a climate change agreement.

Regulation 21 sets out the grounds for an appeal.

Regulation 22 deals with the effect of an appeal in suspending the penalty, termination or decision pending outcome of the appeal.

Regulation 23 sets out the decisions that the First-tier Tribunal may make in determining an appeal.

Regulation 24 makes provision as to how a notice may be served on a sector association or an operator.

An Impact Assessment of the effect that this instrument will have on the costs of business and the voluntary sector is annexed to the Explanatory Memorandum which is available alongside the instrument on www.legislation.gov.uk.