
STATUTORY INSTRUMENTS

2013 No. 3135

The Greenhouse Gas Emissions Trading Scheme and National Emissions Inventory (Amendment) Regulations 2013

PART 2

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

Transitional provisions: penalties

4.—(1) In regulation 3 (interpretation), in the definition of “allowance”, for “subject to regulations 54(7) and 82(1)” substitute “subject to regulations 54(7), 82(1) and 87B(5)”.

(2) In regulation 86 (savings and transitional provisions: the 2005 Regulations)—

- (a) in paragraph (15), after “the following civil penalties apply” insert “(subject to the regulator’s discretion under regulation 51 above)”; and
- (b) in paragraph (18), for “Regulations” substitute “Subject to regulation 87B below, regulations”.

(3) In paragraph (8) of regulation 87 (savings and transitional provisions: the 2010 Regulations)(1), for “Subject to regulation 87A below” substitute “Subject to paragraph (8A) and to regulations 87A and 87B below”.

(4) After regulation 87(8) insert—

“(8A) Regulation 51 above applies in relation to the penalty under regulation 35 of the 2010 Regulations as it applies in relation to the penalty under regulation 64 above.”.

(5) After regulation 87A insert—

“Unreported emissions arising before 2013

87B.—(1) Where paragraph (2) applies, a person (“P”) is not liable to an excess emissions penalty for a failure to surrender allowances in respect of those reportable emissions in a relevant year (“Y”) that—

- (a) were not reported in the verified emissions report submitted for Y; but
- (b) have been determined by the regulator.

(2) This paragraph applies where P, before the regulator serves on P a penalty notice imposing an excess emissions penalty in respect of emissions in Y (or a notice of the regulator’s intention to do so)—

- (a) notifies the regulator that there are reportable emissions not included in the report that has been submitted for Y; and
- (b) has surrendered allowances equal to the reportable emissions for Y as determined by the regulator.

(1) Regulation 87(8) was amended, and regulation 87A inserted, by [S.I. 2013/1037](#).

(3) Where paragraph (2) applies, P is liable to the civil penalty of the sterling equivalent of 20 Euros for each allowance that P failed to surrender by 30th April in the year following Y in respect of the unreported emissions.

(4) Regulation 51(1) above applies to a penalty under paragraph (3) as it applies to a penalty under Part 7.

(5) In this regulation—

(a) “allowance” includes—

(i) where the excess emission penalty would arise under the 2010 Regulations, an aviation allowance; and

(ii) within the limits allowed by regulation 27A of the 2005 Regulations or regulation 26 of the 2010 Regulations, a project credit as defined by regulation 27 of the 2010 Regulations;

(b) “determined” means determined under regulation 30 of the 2005 Regulations or regulation 22 of the 2010 Regulations;

(c) “excess emissions penalty” means the penalty under regulation 39 of the 2005 Regulations or regulation 38(1)(a) of the 2010 Regulations;

(d) “penalty notice” means a notice under regulation 41(2) of the 2005 Regulations or regulation 30(1) of the 2010 Regulations;

(e) “relevant year” means a calendar year prior to 2013;

(f) “unreported emissions” means the emissions mentioned in paragraph (1);

(g) “sterling equivalent” has the meaning given in regulation 54(7) above.”.