
STATUTORY INSTRUMENTS

2019 No. 107

**The Greenhouse Gas Emissions Trading Scheme
(Amendment) (EU Exit) Regulations 2019**

PART 2

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

2. The Greenhouse Gas Emissions Trading Scheme Regulations 2012⁽¹⁾ are amended in accordance with this Part.

Amendment of regulation 3

3.—(1) In regulation 3(1)—

- (a) in the definition of “authority”, omit paragraph (d);
- (b) in the definition of “allowance”, omit “82(1)”;
- (c) for the definition of “aviation activity” substitute—

““aviation activity” means an activity listed in the table in Annex 1 to the Directive under the section titled ‘Aviation’, excluding the activities listed under points (a) to (k) of that section, and for the purposes of this definition, that section is to be read as if —

- (a) for “territory of a Member State to which the Treaty applies” there were substituted “territory of a Member State to which the Treaty applies or the United Kingdom or Gibraltar”;
- (b) in point (a) and in point (j), for “a Member State” there were substituted “a Member State or the United Kingdom; and
- (c) in point (k), for “1 January 2013” there were substituted “1 January 2015”;
- (d) omit the definition of “banned non-UK operator”;
- (e) in the definition of “change of status notice”, for “, 8(4) or 9(1)” substitute “or 8(4)”;
- (f) in the definition of “the Directive”, omit “and as adapted by Annex 20 to the EEA agreement”;
- (g) in the definition of “excluded installation”—
 - (i) for “which is” substitute “which was”;
 - (ii) before “deemed” insert “, before exit day,”;
 - (iii) omit “or paragraph 9(1)”;

⁽¹⁾ S.I. 2012/3038, amended by S.I. 2013/755 (W. 90), 2013/1037, 2013/3135, 2014/3125, 2015/912, 2015/933, 2015/1388 (W. 137), 2015/1849, 2016/28, 2017/1207, 2018/306 and S.R. 2066 No. 28.

- (h) in the definition of “the Free Allocation Decision”, at the end insert “as it had effect immediately before exit day”;
 - (i) at the end of the definition of “installation”, insert “, and for the purposes of this definition, Annex 1 to the Directive is to be read as if for “in a storage site permitted under [Directive 2009/31/EC](#)(2)” in each place in which those words occur, there were substituted “in a storage site permitted under Chapter 3 of Part 1 of the Energy Act 2008(3) or other domestic legislation which immediately before exit day implemented [Directive 2009/31/EC](#)””;
 - (j) after the definition of “KP registry administrator” insert—
 - ““Kyoto Units” means assigned amount units, emission reduction units, certified emission reductions and removal units for the purposes of the Kyoto Protocol.”;
 - (k) in the definition of “regulated activity”, after paragraph (b) insert “and for the purposes of this definition, Annex 1 to the Directive is to be read as if “in a storage site permitted under [Directive 2009/31/EC](#)” in each place in which those words occur, there were substituted “in a storage site permitted under Chapter 3 of Part 1 of the Energy Act 2008 or other domestic legislation which immediately before exit day implemented [Directive 2009/31/EC](#)””;
 - (l) in the definition of “regulator”, omit paragraph (d);
 - (m) at the end of the definition of “specified emissions”, insert “and for the purposes of this definition, that Annex is to be read as if for “in a storage site permitted under [Directive 2009/31/EC](#)” in each place in which those words occur, there were substituted “in a storage site permitted under Chapter 3 of Part 1 of the Energy Act 2008 or other domestic legislation which immediately before exit day implemented [Directive 2009/31/EC](#)””;
 - (n) in the definition of “the UK Registry”, at the end insert “and on or after exit day for the purpose of ensuring the accurate accounting of Kyoto units”.
- (2) In regulation 3(4) for sub-paragraph (b) substitute—
- “(b) an installation that, if it was situated in a Member State, by virtue of Article 10a(3) of the Directive, would not be eligible for an allocation.”.

Amendment of regulation 8

4. In regulation 8—
- (a) in paragraph (1), after “2013” insert “before exit day”;
 - (b) omit paragraphs (2) and (3);
 - (c) in paragraph (6) omit “Subject to paragraph (7),”;
 - (d) omit paragraph (7);
 - (e) in paragraph (8) omit “Subject to paragraph (9),”;
 - (f) omit paragraph (9).

Amendment of regulation 12

5. In regulation 12(4), omit “Subject to paragraph 3(2)(b) of Schedule 4,”.

(2) [Directive 2009/31/EC](#) of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council [Directive 85/337/EEC](#), European Parliament and Council Directives [2000/60/EC](#), [2001/80/EC](#), [2004/35/EC](#), [2006/12/EC](#), [2008/1/EC](#) and Regulation (EC) No 1013/2006.

(3) 2008 c. 32.

Amendment of regulation 13

6. In regulation 13, for paragraph (6)(b), substitute—
- “(b) an installation that, if it was situated in a Member State, by virtue of Article 10a(3) of the Directive, would not be eligible for allocation.”.

Amendment of regulation 15

7. In regulation 15—
- (a) in paragraph (3)(b), omit the words from “(except” to the end;
- (b) in paragraph (4)—
- (i) in sub-paragraph (a)(ii), for “(4) and (6) to (8)” substitute “(6) and (7)”;
- (ii) in sub-paragraph (b)(ii), for “(5) and (7) to (9)” substitute “(7) and (8)”.

Amendment of regulation 16

8. In regulation 16—
- (a) in the heading, for “2020” substitute “2018”;
- (b) in paragraph (1), for “in the trading period 2013 to 2020” substitute “ending on or before 31st December 2018”;
- (c) in paragraph (6), after “scheme year”, insert “ending on or before 31st December 2018,”.

Amendment of regulation 20

9. In regulation 20—
- (a) before the definition of “the 2009 Regulations”, for “Schedules 7 to 10” substitute “Schedule 9”;
- (b) after the definition of “the 2009 Regulations” insert—
- ““aircraft operator” means the person who operates an aircraft at the time it performs an aviation activity or, where that person is not known or is not identified by the owner of the aircraft, the owner of the aircraft;”;
- (c) omit the definitions of “benchmarking plan” and “benchmarking year”;
- (d) in the definition of “Commission list”, for “as amended from time to time” substitute “as it had effect immediately before exit day”;
- (e) in the definition of “excluded aviation activity”, in paragraph (b)(i), after “EEA state” insert “, the United Kingdom or Gibraltar”;
- (f) omit the definition of “non-UK operator”;
- (g) after the definition of “excluded aviation emissions” insert—
- ““ICAO” means The International Civil Aviation Organisation;
- “Notifying State” means a State that has submitted to ICAO a request for the registration of, or change in, the ICAO three-letter designator of an aircraft operator over which that State has jurisdiction;”;
- (h) in the definition of “outermost region flight”, in paragraph (b)—
- (i) at the end of sub-paragraph (i) omit “or”;
- (ii) at the end of sub-paragraph (ii), insert “or”;
- (iii) after sub-paragraph (ii), insert—

- “(iii) the United Kingdom or Gibraltar;”;
- (i) for the definition of “UK administered operator” substitute—
- ““UK administered operator” means—
- (a) in respect of any period before exit day, a person who was, subject to regulations 22 to 25—
- (i) identified in the Commission list, and
- (ii) specified in that list as an aircraft operator administered by the United Kingdom;
- (b) in respect of any period on or after exit day, a person who—
- (i) immediately before exit day was—
- (aa) identified in the Commission list; and
- (bb) specified in that list as an aircraft operator administered by the United Kingdom; and
- (cc) has its registered office, or is resident, in the United Kingdom; or
- (ii) where sub-paragraph (i) does not apply, is an aircraft operator which—
- (aa) has an ICAO three-letter designator in respect of which the United Kingdom is the Notifying State, as listed in the ICAO document 8585/185 titled Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services⁽⁴⁾; or
- (bb) has no ICAO three-letter designator, but holds an air operator certificate granted by the United Kingdom Civil Aviation Authority (“UK AOC”); or
- (cc) has no ICAO three-letter designator or UK AOC, but has its registered office, or is resident, in the United Kingdom;”.

Amendment of regulation 21

- 10.** In regulation 21(1), for “Schedules 7 to 10” substitute “Schedule 9”.

Amendment of regulation 22

- 11.** In regulation 22—
- (a) in paragraph (1), at the beginning insert “Subject to paragraph (1A),”;
- (b) after paragraph (1) insert—
- “(1A) Paragraph (1) does not apply on or after exit day.”;
- (c) in paragraph (6)(b), after “effect” insert “on or after exit day, or if earlier,”.

Amendment of regulation 23

- 12.** In regulation 23, after paragraph (4) insert—
- “(5) This regulation does not apply on or after exit day.”.

(4) ICAO document 8585/185, Designators for Aircraft Operating Agencies, Aeronautical Authorities and Services. Available at: <https://store.icao.int/designators-for-aircraft-operating-agencies-aeronautical-authorities-and-services-doc-8585-185-multilingual.html>. Copy available for inspection at the Department for Business, Energy & Industrial Strategy, 1 Victoria Street, London SW1H 0ET.

Amendment of regulation 25

13. In regulation 25—

(a) for paragraph (1) substitute—

“(1) This paragraph applies where the Secretary of State is satisfied that a Person (“P”) is regulated under legislation which immediately before exit day implemented the Directive in Gibraltar.”;

(b) in paragraph (4)—

(i) omit “(b) or”;

(ii) at the end of sub-paragraph (a), omit “and”;

(iii) omit sub-paragraph (b).

Amendment of regulation 26

14. In regulation 26(2), omit “or an unlisted operator”.

Amendment of regulation 27

15. In regulation 27, for “regulations 28 and 29” substitute “regulation 29”.

Omission of regulation 28

16. Omit regulation 28.

Omission of regulation 30

17. Omit regulation 30.

Amendment of regulation 32

18. In regulation 32—

(a) in paragraph (4), for “or third sub-paragraphs” substitute “sub-paragraph”;

(b) in paragraph (7), for “commences aviation activities during the scheme years 2015 to 2023” substitute “undertakes no aviation activities other than excluded aviation activities”.

Omission of regulations 32A, 32B and 32C

19. Omit regulations 32A, 32B and 32C.

Amendment of regulation 33A

20. In regulation 33A(1)(b), omit “or 32A”.

Amendment of regulation 34

21. In regulation 34(1), omit “, 32A or 32B”.

Amendment of regulation 35

22. In regulation 35—

(a) in paragraph (5), for “to 2023” substitute “onwards”;

- (b) in paragraph (6)(a), omit “for the scheme years beginning with 2013 and ending with 2023”;
- (c) in paragraph (7)(a)(ii), after “EEA state” insert “, the UK or Gibraltar”.

Amendment of regulation 37

23. In regulation 37, omit paragraph (3A).

Omission of regulation 38

24. Omit regulation 38.

Amendment of regulation 39

25. In regulation 39—
- (a) in paragraph (1)(b), after “imposed”, insert “before exit day”;
 - (b) in paragraph (4), for “Schedules 9 and 10” substitute “Schedule 9”.

Omission of regulation 40

26. Omit regulation 40.

Amendment of regulation 41

27. In regulation 41, after “scheme year”, insert “up to and including the scheme year 2018”.

Amendment of regulation 42A

28. In regulation 42A—
- (a) in paragraph (2), after “with 2015”, insert “and ending with 2018”;
 - (b) in paragraph (3), omit “and ending with 2023”.

Amendment of regulation 42B

29. In regulation 42B—
- (a) in paragraph (1), after “scheme year” insert “up to and including the scheme year 2017”;
 - (b) in paragraph (4)(a)(i), omit “where the non-compliance year is any scheme year beginning with 2013 and ending with 2023,”;
 - (c) omit paragraph (4)(a)(ii).

Amendment of regulation 44

30. In regulation 44(5), omit sub-paragraph (a).

Amendment of regulation 45

31. In regulation 45—
- (a) in paragraph (4)—
 - (i) in sub-paragraph (a), omit “and”;
 - (ii) omit sub-paragraph (b);

- (b) in paragraph (6)—
 - (i) at the end of sub-paragraph (c) insert “or”;
 - (ii) for sub-paragraph (d) substitute—
 - “(d) the administration of the UK Registry.”;
 - (iii) omit sub-paragraph (e).

Amendment of regulation 47

- 32.** In regulation 47(1)(a), omit “paragraph 8 of Schedule 7 or paragraph 8 of Schedule 8,”.

Amendment of regulation 49

- 33.** In regulation 49(2), after “subsequent scheme year” insert “up to and including scheme year 2019”.

Amendment of regulation 52

- 34.** In regulation 52(2)—
 - (a) after “such year” insert “up to and including the scheme year 2018”;
 - (b) after “(BxC)”, insert “and for subsequent scheme years the civil penalty is A”.

Amendment of regulation 54

- 35.** In regulation 54, omit paragraph (5)(c).

Amendment of regulation 55

- 36.** In regulation 55(1), after “scheme year” insert “, up to and including the scheme year 2018,”.

Amendment of regulation 57

- 37.** In regulation 57(2)—
 - (a) after “penalty”, insert “in relation to any scheme year up to and including the scheme year 2018”;
 - (b) after “(BxC)”, insert “and for subsequent scheme years the civil penalty is A”.

Amendment of regulation 58

- 38.** In regulation 58(4)—
 - (a) after “penalty”, insert “in relation to any scheme year up to and including the scheme year 2018”;
 - (b) after “(A+B)”, insert “and for subsequent scheme years the civil penalty is 2 x A”.

Amendment of regulation 58A

- 39.** In regulation 58A—
 - (a) after “where” insert “before exit day”;
 - (b) for “fails” substitute “failed”.

Amendment of regulation 58B**40.** In regulation 58B—

- (a) after “where” insert “before exit day”;
- (b) for “fails” substitute “failed”.

Amendment of regulation 60**41.** In regulation 60(1)—

- (a) in sub-paragraph (a), omit “, 32A(2) or 32B(2)”;
- (b) in sub-paragraph (b), omit “, 32A(3)(b), 32A(5)(b), 32B(3)(b) or 32B(5)(b)”.

Omission of regulation 66**42.** Omit regulation 66.**Amendment of regulation 67****43.** In regulation 67—

- (a) in paragraph (1)—
 - (i) after “where” insert “before exit day”;
 - (ii) omit sub-paragraph (b)(ii);
- (b) in paragraph (2)(b)—
 - (i) after “day” insert “before exit day”;
 - (ii) for “fails” substitute “failed”.

Amendment of regulation 70**44.** In regulation 70(1)—

- (a) at the beginning of sub-paragraph (e), insert “before exit day”;
- (b) at the beginning of sub-paragraph (g), insert “before exit day”;
- (c) at the beginning of sub-paragraph (h), insert “before exit day”.

Amendment of regulation 73**45.** In regulation 73, omit paragraph (2)(o).**Amendment of regulation 74****46.** In regulation 74—

- (a) for paragraph (1) substitute—

“(1) A person who is aggrieved by a decision of the KP registry administrator may exercise the right to object to that decision by appealing to the appeal body.”
- (b) omit paragraphs (2) and (5).

Amendment of regulation 77**47.** In regulation 77—

- (a) in paragraph (2), omit “under the Registries Regulation 2013”;

- (b) in paragraph (3), for “or under the Registries Regulation 2013” substitute “or otherwise by the KP registry administrator”.

Amendment of regulation 80

48. In regulation 80—

- (a) before paragraph (2) insert—

“(A1) This regulation does not apply on or after exit day, other than paragraph (15).”;

- (b) in paragraph (9), omit “or paragraph 10(2) of Schedule 7”;

- (c) in paragraph (15)—

- (i) omit “The registry administrator or”;

- (ii) in sub-paragraph (a), omit “in the Union Registry or”.

Amendment of regulation 81

49. In regulation 81(1), for “meeting the obligations of the United Kingdom referred to in Article 5(1) of the Registries Regulation 2013 (obligations as a party to the Kyoto Protocol and under Article 6 of Decision No [280/2004/EC](#))” substitute “ensuring the accurate accounting of Kyoto units”.

Amendment of regulation 82

50. In regulation 82—

- (a) omit paragraph (1);

- (b) in paragraph (2)—

- (i) at the end of sub-paragraph (a), omit “or”;

- (ii) omit sub-paragraph (b);

- (c) omit paragraph (3).

Amendment of regulation 84

51. In regulation 84—

- (a) in paragraph (2), omit “the registry administrator or” and “, the Registries Regulations 2013”;

- (b) in paragraph (3), omit “, the registry administrator”.

Amendment of regulation 87B

52. In regulation 87B, omit paragraph (2)(b).

Insertion of regulation 90

53. After regulation 89 insert—

“Transitional provisions: permits granted before exit day

90.—(1) In the case of a permit granted before exit day, the regulator must vary the permit as necessary in relation to the scheme year 2019 and any subsequent scheme year to bring it into a form in which it could be granted under regulation 10 on or after exit day.

(2) Until such variations are made, the permit has effect as if any requirements included in the permit by virtue of paragraph 2(1)(e)(iii) or 2(7)(a) of Schedule 4 or paragraph 3(1)(e) of Schedule 5 do not apply in relation to the scheme year 2019, or any subsequent scheme year.”.

Amendment of Schedule 4

54. In Schedule 4—

- (a) in paragraph 1(1)—
 - (i) in paragraph (c)(ii), after “within” insert “the meaning of”;
 - (ii) omit paragraph (f)(ii);
- (b) in paragraph 2—
 - (i) in sub-paragraph (1)(c)(ii), after “within” insert “the meaning of”;
 - (ii) in sub-paragraph (1)(e)(iii), at the beginning, insert “except in the case of a permit granted on or after exit day”;
 - (iii) in sub-paragraph (7)(a), after “that Schedule” insert “or in the case of a permit granted on or after exit day”;
- (c) in paragraph 3 —
 - (i) in sub-paragraph (2), at the beginning insert “Subject to sub-paragraph (2A)”;
 - (ii) after sub-paragraph (2) insert—
 - “(2A) Sub-paragraph (2) does not apply on or after exit day.”;
 - (iii) omit sub-paragraphs (11) and (12);
- (d) in paragraph 4—
 - (i) in sub-paragraph (1), at the beginning insert “Subject to sub-paragraph (1A)”;
 - (ii) after sub-paragraph (1) insert—
 - “(1A) Sub-paragraph (1)(c) does not apply in the case of a notice given to the operator on or after exit day.”;
 - (iii) omit sub-paragraphs (4) and (8);
- (e) in paragraph 5 —
 - (i) in sub-paragraph (1), at the beginning insert “Subject to sub-paragraph (1A)”;
 - (ii) after sub-paragraph (1) insert—
 - “(1A) Sub-paragraph (1)(c) does not apply in the case of a notice given to the operator on or after exit day.”;
 - (iii) omit sub-paragraphs (5) and (9).

Amendment of Schedule 5

55. In Schedule 5 —

- (a) in paragraph 3(1)(c)(ii), after “within” insert “the meaning of”;
- (b) in paragraph 3(1)(e), at the beginning insert “except in the case of a permit granted on or after exit day”;
- (c) in paragraph 5, after “scheme year”, insert “up to and including the scheme year 2018”;
- (d) in paragraph 6—
 - (i) after sub-paragraph (2) insert—

- “(2A) An application under sub-paragraph (1) cannot be made on or after exit day.”;
- (ii) in sub-paragraph (4), for “subsequent scheme years” substitute “any scheme years up to and including the scheme year 2018”;
- (e) in paragraph 7, before sub-paragraph (1) insert—
 - “(A1) This paragraph does not apply in relation to a scheme year commencing on or after 1st January 2019.”;
- (f) in paragraph 8, omit sub-paragraphs (9) and (10);
- (g) omit paragraph 9.

Amendment of Schedule 6

- 56. In Schedule 6 in paragraph 1A —
 - (a) omit “Subject to sub-paragraph (2),”;
 - (b) at the end of sub-paragraph (1)(c), omit “or”;
 - (c) at the end of sub-paragraph (1)(d), insert “; or”;
 - (d) after sub-paragraph (1)(d) insert—
 - “(e) on or after exit day.”;
 - (e) omit sub-paragraph (2).

Amendment of Schedule 6A

- 57. In Schedule 6A, in paragraph 1, after “notice”, insert “and ceases to apply on exit day”.

Omission of Schedule 7

- 58. Omit Schedule 7.

Omission of Schedule 8

- 59. Omit Schedule 8.

Amendment of Schedule 9

- 60. In Schedule 9, in paragraph 1—
 - (a) in the definition of “operating ban”, after “imposed” insert “before exit day”;
 - (b) in the definition of “regulator expenses”, in paragraph (a) omit “, or any sums under paragraph 2(4)(b) of Schedule 10 that have not been recovered under paragraph 2(5) of that Schedule”.

Omission of Schedule 10

- 61. Omit Schedule 10.

Amendment of Schedule 11

- 62. In Schedule 11—
 - (a) in paragraph 1(2)(c), omit “benchmarking plan (as defined by regulation 20);”;

(b) in paragraph 7—

- (i) for “is made” substitute “was made”;
- (ii) after “where an appeal is made” insert “before exit day”; and
- (iii) at the end insert “and for that purpose, the references to Schedules 7 and 8 are references to those Schedules as they had effect immediately before exit day”.