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STATUTORY INSTRUMENTS

2020 No. 18

CLIMATE CHANGE

**The Greenhouse Gas Emissions Trading Scheme (Amendment)
Regulations 2020**

<i>Made</i>	- - - -	<i>8th January 2020</i>
<i>Laid before Parliament</i>		<i>9th January 2020</i>
<i>Coming into force</i>	- -	<i>31st January 2020</i>

The Secretary of State has been designated(a) for the purposes of making regulations under section 2(2) of the European Communities Act 1972(b) in relation to the environment.

In accordance with section 2(4) of the Pollution Prevention and Control Act 1999 (“the 1999 Act”)(c), the Secretary of State has consulted the Environment Agency, the Natural Resources Body for Wales, the Scottish Environment Protection Agency, and such bodies or persons appearing to the Secretary of State to be representative of the interests of local government, industry, agriculture and small businesses, and such other bodies and persons, as the Secretary of State considers appropriate.

Accordingly, the Secretary of State makes these Regulations(d) in exercise of the powers conferred by sections 2 and 7(9) of, and Schedule 1 to, the 1999 Act and by section 2(2) of the European Communities Act 1972.

Citation and commencement

1. These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2020 and come into force on 31st January 2020.

(a) S.I. 2008/301.
(b) 1972 c. 68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).
(c) 1999 (c. 24); section 2(4) was amended by paragraph 395 of Schedule 2 to the Natural Resources Body for Wales (Functions) Order 2013 (S.I. 2013/755 (W. 90)).
(d) Under section 57 of the Scotland Act 1998 (c. 46), despite the transfer to the Scottish Ministers of functions in relation to observing and implementing obligations under EU law in respect of devolved matters, any function of the Secretary of State in relation to any matter continues to be exercisable as regards Scotland for the purposes specified in section 2(2) of the European Communities Act 1972. And similarly, under paragraph 5 of Schedule 3 to the Government of Wales Act 2006 (c. 32), despite the transfer to the Welsh Ministers of functions under section 2 of the 1999 Act so far as exercisable in relation to Wales (except in relation to offshore oil and gas exploration and exploitation), those functions continue to be exercisable by the Secretary of State in relation to Wales for such purposes.

Amendment of the Greenhouse Gas Emissions Trading Scheme Regulations 2012

2. The Greenhouse Gas Emissions Trading Scheme Regulations 2012(a) are amended in accordance with regulations 3 to 9.

Amendment of regulation 3

3.—(1) Regulation 3 is amended as follows.

(2) In paragraph (1)—

(a) for the definition of “Northern Ireland Regulations”, substitute—

““Northern Ireland Regulations” means the Pollution Prevention and Control (Industrial Emissions) Regulations (Northern Ireland) 2013(b);”;

(b) in the definition of “the Verification Regulation 2018”, after “Verification Regulation” omit “2018”.

Amendment of regulation 7

4.—(1) Regulation 7 is amended as follows.

(2) In paragraph (2), after “Regulation”, for “37(1)” substitute “40(1)”.

Amendment of regulation 8

5.—(1) Regulation 8 is amended as follows.

(2) In paragraph (9), after “Verification Regulation” omit “2018”.

Amendment of Regulation 52

6.—(1) Regulation 52 is amended as follows.

(2) In paragraph (4), in the words before sub-paragraph (a), after “regulation”, for “37” substitute “40”.

Amendment of Regulation 73

7.—(1) Regulation 73 is amended as follows.

(2) In paragraph (3)(a), after “regulation”, for “37” substitute “40”.

Amendment of Schedule 1

8.—(1) Schedule 1 is amended as follows.

(2) In paragraph 2(2), in the definition of “power of entry”, after “regulation”, for “27” substitute “30”.

Amendment of Schedule 5

9.—(1) Schedule 5 is amended as follows.

(2) In paragraph 3—

(a) in sub-paragraph (2), after “regulation”, for “37” substitute “40”;

(b) in sub-paragraph (11), after “regulation”, for “37” substitute “40”.

(a) S.I. 2012/3038; relevant amending instruments are S.I. 2013/755 (W.90), 2013/3135, 2014/3125, 2015/1849, 2017/1207, 2018/306 and 2019/1440.

(b) S.R. 2013 No. 160. There are amendments to this instrument that are not relevant to these Regulations.

(3) In paragraph 6(8), in the words before paragraph (a), after “regulation”, for “37” substitute “40”.

Amendment of the Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019

10. The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019(a) are amended in accordance with regulations 11 to 16.

Amendment of regulation 1

11.—(1) Regulation 1 is amended as follows.

(2) After paragraph (2), insert—

“(2A) Regulations 15(4) and 31(1) come into force on 1st February 2020.

(2B) The following regulations come into force on 1st February 2020—

- (a) regulation 3(2)(a), so far as required for the purposes of sub-paragraphs (d), (e) and (f) of this paragraph;
- (b) regulation 3(2)(d), so far as required for the purposes of sub-paragraphs (d), (e) and (f) of this paragraph;
- (c) regulation 11(3), so far as required for the purposes of sub-paragraphs (d), (e) and (f) of this paragraph;
- (d) regulation 29(5)(a), to the extent it amends paragraph 3(10) of Schedule 5 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012, so far as required for the authority to be able to comply with paragraph 3(11) of that Schedule in relation to the allocation period;
- (e) regulation 29(5)(b), which amends paragraph 3(1)(e) of Schedule 5 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012, so far as required for the authority to be able to comply with paragraph 3(2) of that Schedule in relation to the allocation period;
- (f) regulation 29(8), which amends paragraph 6 of Schedule 5 to the Greenhouse Gas Emissions Trading Scheme Regulations 2012, so far as required for the authority to be able to comply with sub-paragraph (8) of that paragraph (as amended) in relation to the allocation period.”.

(3) In paragraph (3), after “paragraph”, for “(5)” substitute “(6)”.

(4) For paragraph (5) substitute—

“(5) These Regulations will cease to have effect and are revoked at the time at which Directive 2003/87/EC(b) ceases to apply to the United Kingdom pursuant to international law.”.

Amendment of regulation 11

12.—(1) Regulation 11 is amended as follows.

(2) In paragraph (3), in the inserted paragraph (C1), for “paragraph 6A” substitute “paragraph 8(6A)”.

Amendment of regulation 22

13.—(1) Regulation 22 is amended as follows.

(a) S.I. 2019/1440.

(b) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

(2) In the inserted regulation 58ZB—

- (a) in paragraph (4), in the words before sub-paragraph (a), after “regulation”, for “37” substitute “40”;
- (b) in paragraph (5)(b)—
 - (i) after “Article 27” insert “installation emissions”;
 - (ii) after “under paragraph 5(3)” omit “(b)”.

Amendment of regulation 24

14.—(1) Regulation 24 is amended as follows.

- (2) Omit paragraph (2).

Amendment of regulation 31

15.—(1) Regulation 31 is amended as follows.

(2) In paragraph (1), for “references to the Verification Regulation” substitute “references to “the Verification Regulation” in the Greenhouse Gas Emissions Trading Scheme Regulations 2012”.

Amendment of the Schedule

16.—(1) The Schedule is amended as follows.

(2) In paragraph 5(3) of the inserted Schedule 5A, after “received”, for “the operator’s preferred alternative permit by the date specified in paragraph 2(2)(a) or (b), as the case may be” substitute “notification of the operator’s preferred alternative permit in accordance with paragraph 3”.

(3) In paragraph 5(4) of the inserted Schedule 5A, in the words after paragraph (b), after “notice”, omit “given”.

Kwasi Kwarteng
Minister of State

8th January 2020

Department for Business, Energy and Industrial Strategy

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038) (“the 2012 Regulations”) implement Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowance trading within the Community (OJ L 275, 25.10.2003, p. 32) (“the Directive”).

The Greenhouse Gas Emissions Trading Scheme (Amendment) (No. 3) Regulations 2019 (S.I. 2019/1440) amend the 2012 Regulations to implement the amendments made to the Directive by Directive 2018/410 of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments, and Decision (EU) 2015/1814 (OJ L 76, 19.3.2018, p. 3).

These Regulations are made to correct errors in S.I. 2019/1440 and make some additional amendments as a consequence of those corrections. To the extent that S.I. 2019/1440 is already in force, the amendments are made to the 2012 Regulations; and otherwise they are made to S.I. 2019/1440.

These Regulations amend the definition of “the Northern Ireland Regulations” in the 2012 Regulations and correct references to those Regulations in the 2012 Regulations and in S.I. 2019/1440.

These Regulations amend the definition of “the Verification Regulation 2018” in the 2012 Regulations, as amended by S.I. 2019/1440, so that references to that Regulation are consistent throughout the 2012 Regulations.

These Regulations amend the commencement provision in S.I. 2019/1440 so that additional provisions are brought into force before the main coming into force date for that statutory instrument of 1st January 2021 and to provide that the amendments made by that instrument will remain operative for the duration of any implementation period following the UK’s exit from the European Union.

These Regulations correct some cross-references in amendments made by S.I. 2019/1440.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen. An Explanatory Memorandum is available with these Regulations on www.legislation.gov.uk. Copies have been placed in the Libraries of both Houses of Parliament.

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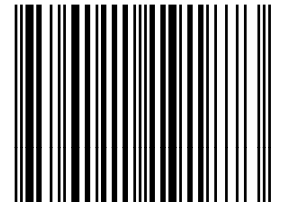
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