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STATUTORY INSTRUMENTS

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**2018 No. XXXX**

**CLIMATE CHANGE**

**The Greenhouse Gas Emissions Trading Scheme (Amendment)  
Regulations 2018**

*Made* - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - \*\*\*

The Secretary of State is a Minister designated(a) for the purposes of 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, in exercise of the powers conferred by sections 2 of and Schedule 1 to the 1999 Act(d), and by section 2(2) of the European Communities Act 1972, makes the following Regulations(e):

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2018 and come into force on \*\*.

(2) In these Regulations a reference to a numbered regulation or a numbered Schedule is to that regulation of, or Schedule to, the Greenhouse Gas Emissions Trading Scheme Regulations 2012(f).

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(a) S.I. 2008/301.  
(b) 1972 c. 68; section 2(2) was amended by section 27(1)(a) 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.  
(d) 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)).  
(e) 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.  
(f) S.I. 2012/3038; those Regulations are amended by Schedule 4 to W.S.I. 2013/755 (W. 90) (see in particular paragraph 425), by S.I. 2013/1037, by S.I. 2013/3135, by S.I. 2014/3125, by S.I. 2015/933, by S.I. 2015/1388, and by S.I. 2015/1849.

## **Amendments to the Greenhouse Gas Emissions Trading Scheme Regulations 2012**

2. The Greenhouse Gas Emissions Trading Scheme Regulations 2012 are amended in accordance with regulations 3 to 6.

### **Monitoring and reporting emissions**

3. For regulation 35(4), substitute—

“(4) Subject to paragraphs (6) to (8), the report prepared under paragraph (3) must be submitted to the regulator—

- (a) for scheme year 2018, by 28<sup>th</sup> February 2019; or
- (b) for any other scheme year, by 31st March in the year following that scheme year.”.

### **Surrender of allowances: UK aircraft operators: 2013, 2014 and subsequent scheme years**

4. For regulation 42A(2), substitute—

“(2) Subject to paragraph (3) and regulation 42B, for each scheme year beginning with 2015, A must surrender a number of allowances or aviation allowances equal to A's annual reportable emissions in that scheme year by—

- (a) for scheme year 2018, 22nd March 2019; or
- (b) for any other scheme year, the following 30th April.”.

### **Failure to surrender allowances**

5. For regulation 54(7)(b), substitute—

“(b) “relevant date” means—

- (i) if the scheme year mentioned in paragraph (4) is scheme year 2018, 22<sup>nd</sup> March 2019; or
- (ii) if the scheme year mentioned in paragraph (4) is any other scheme year, 30th April in the year following that scheme year;”.

### **Permits**

6.—(1) For paragraph 2(3)(b) of Schedule 4, substitute—

“(b) a requirement to prepare, for each scheme year, a verified report of those emissions in accordance with the Monitoring and Reporting Regulation and the Verification Regulation and to submit that report to the regulator—

- (i) for scheme year 2018, by 28<sup>th</sup> February 2019; or
- (ii) for any other scheme year, by 31st March in the following year;”.

(2) For paragraph 2(4) of Schedule 4, substitute—

“(4) The surrender requirements are conditions obliging the operator to surrender a number of allowances equal to the annual reportable emissions of the installation in a scheme year by—

- (a) for scheme year 2018, 22nd March 2019; or
- (b) for any other scheme year, the following 30th April.”.

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Business, Energy and Industrial Strategy

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emissions allowances trading within the Community (“the Directive”) is implemented in the United Kingdom by the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (S.I. 2012/3038) (“the 2012 Regulations”).

*Regulation 3* amends regulation 35(4) of the 2012 Regulations, changing the date when aviation operators must submit a verified emissions report for the 2018 scheme year to 28<sup>th</sup> February 2019. For other scheme years the date remains unchanged.

*Regulation 4* amends regulation 42A(2) of the 2012 Regulations, changing the date when aviation operators must surrender sufficient allowances to cover their annual reportable emissions for the 2018 scheme year to 22<sup>nd</sup> March 2019. For other scheme years the date remains unchanged.

*Regulation 5* amends regulation 54(7)(b) of the 2012 Regulations, changing the relevant date for the purposes of the penalty applicable where an aviation operator or installation has annual reportable emissions which are not included in the verified report and where there is a failure to surrender sufficient allowances in relation to those unreported emissions. In such a case, the relevant date of surrender is changed to 22<sup>nd</sup> March 2019 for the 2018 scheme year. For other scheme years the date remains unchanged.

In the case of installations, the relevant reporting and surrender requirements are set out as conditions of the permit. *Regulation 6* amends Schedule 4 of the 2012 Regulations to change both the date when installations are required to submit a verified report for the 2018 scheme year to 28<sup>th</sup> February 2019 and the date when installations are required to surrender sufficient allowances to cover their annual reportable emissions for the 2018 scheme year to 22<sup>nd</sup> March 2019. For other scheme years those dates remains unchanged.

A full regulatory impact assessment has not been produced for this instrument as no significant impact on the private or voluntary sectors is foreseen.